

1 GARY E. KLAUSNER (STATE BAR NO. 69077)  
2 EVE H. KARASIK (STATE BAR NO. 155356)  
3 GREGORY K. JONES (STATE BAR NO. 181072)  
STUTMAN, TREISTER & GLATT  
3 PROFESSIONAL CORPORATION  
1901 Avenue of the Stars  
4 12th Floor  
Los Angeles, CA 90067  
5 Telephone: (310) 228-5600  
Telecopy: (310) 228-5788  
6  
7 Reorganization Counsel for  
Debtor and Debtor in Possession

8 Debtor's Mailing Address:  
888 Prospect Street, Suite 300  
9 La Jolla, CA 92037

10 **UNITED STATES BANKRUPTCY COURT**

11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 In re ) Case No. 09-19431-LA11  
13 IMPERIAL CAPITAL BANCORP, INC., ) Chapter 11  
14 Debtor. )  
15 )  
16 Tax Identification Number: )  
17 95-4596322 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
DISCLOSURE STATEMENT RE  
CHAPTER 11 LIQUIDATING PLAN OF  
REORGANIZATION FOR DEBTOR  
IMPERIAL CAPITAL BANCORP, INC.,  
A DELAWARE CORPORATION DATED  
OCTOBER 4, 2010

26 **Disclosure Statement Hearing**

27 ) [To be Scheduled]  
28 )

29 **Confirmation Hearing**

30 ) [To be Scheduled]  
31 )  
32 )  
33 )  
34 )  
35 )  
36 )  
37 )  
38 )  
39 )  
40 )  
41 )  
42 )  
43 )  
44 )  
45 )  
46 )  
47 )  
48 )  
49 )  
50 )  
51 )  
52 )  
53 )  
54 )  
55 )  
56 )  
57 )  
58 )  
59 )  
60 )  
61 )  
62 )  
63 )  
64 )  
65 )  
66 )  
67 )  
68 )  
69 )  
70 )  
71 )  
72 )  
73 )  
74 )  
75 )  
76 )  
77 )  
78 )  
79 )  
80 )  
81 )  
82 )  
83 )  
84 )  
85 )  
86 )  
87 )  
88 )  
89 )  
90 )  
91 )  
92 )  
93 )  
94 )  
95 )  
96 )  
97 )  
98 )  
99 )  
100 )  
101 )  
102 )  
103 )  
104 )  
105 )  
106 )  
107 )  
108 )  
109 )  
110 )  
111 )  
112 )  
113 )  
114 )  
115 )  
116 )  
117 )  
118 )  
119 )  
120 )  
121 )  
122 )  
123 )  
124 )  
125 )  
126 )  
127 )  
128 )  
129 )  
130 )  
131 )  
132 )  
133 )  
134 )  
135 )  
136 )  
137 )  
138 )  
139 )  
140 )  
141 )  
142 )  
143 )  
144 )  
145 )  
146 )  
147 )  
148 )  
149 )  
150 )  
151 )  
152 )  
153 )  
154 )  
155 )  
156 )  
157 )  
158 )  
159 )  
160 )  
161 )  
162 )  
163 )  
164 )  
165 )  
166 )  
167 )  
168 )  
169 )  
170 )  
171 )  
172 )  
173 )  
174 )  
175 )  
176 )  
177 )  
178 )  
179 )  
180 )  
181 )  
182 )  
183 )  
184 )  
185 )  
186 )  
187 )  
188 )  
189 )  
190 )  
191 )  
192 )  
193 )  
194 )  
195 )  
196 )  
197 )  
198 )  
199 )  
200 )  
201 )  
202 )  
203 )  
204 )  
205 )  
206 )  
207 )  
208 )  
209 )  
210 )  
211 )  
212 )  
213 )  
214 )  
215 )  
216 )  
217 )  
218 )  
219 )  
220 )  
221 )  
222 )  
223 )  
224 )  
225 )  
226 )  
227 )  
228 )  
229 )  
230 )  
231 )  
232 )  
233 )  
234 )  
235 )  
236 )  
237 )  
238 )  
239 )  
240 )  
241 )  
242 )  
243 )  
244 )  
245 )  
246 )  
247 )  
248 )  
249 )  
250 )  
251 )  
252 )  
253 )  
254 )  
255 )  
256 )  
257 )  
258 )  
259 )  
260 )  
261 )  
262 )  
263 )  
264 )  
265 )  
266 )  
267 )  
268 )  
269 )  
270 )  
271 )  
272 )  
273 )  
274 )  
275 )  
276 )  
277 )  
278 )  
279 )  
280 )  
281 )  
282 )  
283 )  
284 )  
285 )  
286 )  
287 )  
288 )  
289 )  
290 )  
291 )  
292 )  
293 )  
294 )  
295 )  
296 )  
297 )  
298 )  
299 )  
300 )  
301 )  
302 )  
303 )  
304 )  
305 )  
306 )  
307 )  
308 )  
309 )  
310 )  
311 )  
312 )  
313 )  
314 )  
315 )  
316 )  
317 )  
318 )  
319 )  
320 )  
321 )  
322 )  
323 )  
324 )  
325 )  
326 )  
327 )  
328 )  
329 )  
330 )  
331 )  
332 )  
333 )  
334 )  
335 )  
336 )  
337 )  
338 )  
339 )  
340 )  
341 )  
342 )  
343 )  
344 )  
345 )  
346 )  
347 )  
348 )  
349 )  
350 )  
351 )  
352 )  
353 )  
354 )  
355 )  
356 )  
357 )  
358 )  
359 )  
360 )  
361 )  
362 )  
363 )  
364 )  
365 )  
366 )  
367 )  
368 )  
369 )  
370 )  
371 )  
372 )  
373 )  
374 )  
375 )  
376 )  
377 )  
378 )  
379 )  
380 )  
381 )  
382 )  
383 )  
384 )  
385 )  
386 )  
387 )  
388 )  
389 )  
390 )  
391 )  
392 )  
393 )  
394 )  
395 )  
396 )  
397 )  
398 )  
399 )  
400 )  
401 )  
402 )  
403 )  
404 )  
405 )  
406 )  
407 )  
408 )  
409 )  
410 )  
411 )  
412 )  
413 )  
414 )  
415 )  
416 )  
417 )  
418 )  
419 )  
420 )  
421 )  
422 )  
423 )  
424 )  
425 )  
426 )  
427 )  
428 )  
429 )  
430 )  
431 )  
432 )  
433 )  
434 )  
435 )  
436 )  
437 )  
438 )  
439 )  
440 )  
441 )  
442 )  
443 )  
444 )  
445 )  
446 )  
447 )  
448 )  
449 )  
450 )  
451 )  
452 )  
453 )  
454 )  
455 )  
456 )  
457 )  
458 )  
459 )  
460 )  
461 )  
462 )  
463 )  
464 )  
465 )  
466 )  
467 )  
468 )  
469 )  
470 )  
471 )  
472 )  
473 )  
474 )  
475 )  
476 )  
477 )  
478 )  
479 )  
480 )  
481 )  
482 )  
483 )  
484 )  
485 )  
486 )  
487 )  
488 )  
489 )  
490 )  
491 )  
492 )  
493 )  
494 )  
495 )  
496 )  
497 )  
498 )  
499 )  
500 )  
501 )  
502 )  
503 )  
504 )  
505 )  
506 )  
507 )  
508 )  
509 )  
510 )  
511 )  
512 )  
513 )  
514 )  
515 )  
516 )  
517 )  
518 )  
519 )  
520 )  
521 )  
522 )  
523 )  
524 )  
525 )  
526 )  
527 )  
528 )  
529 )  
530 )  
531 )  
532 )  
533 )  
534 )  
535 )  
536 )  
537 )  
538 )  
539 )  
540 )  
541 )  
542 )  
543 )  
544 )  
545 )  
546 )  
547 )  
548 )  
549 )  
550 )  
551 )  
552 )  
553 )  
554 )  
555 )  
556 )  
557 )  
558 )  
559 )  
560 )  
561 )  
562 )  
563 )  
564 )  
565 )  
566 )  
567 )  
568 )  
569 )  
570 )  
571 )  
572 )  
573 )  
574 )  
575 )  
576 )  
577 )  
578 )  
579 )  
580 )  
581 )  
582 )  
583 )  
584 )  
585 )  
586 )  
587 )  
588 )  
589 )  
590 )  
591 )  
592 )  
593 )  
594 )  
595 )  
596 )  
597 )  
598 )  
599 )  
600 )  
601 )  
602 )  
603 )  
604 )  
605 )  
606 )  
607 )  
608 )  
609 )  
610 )  
611 )  
612 )  
613 )  
614 )  
615 )  
616 )  
617 )  
618 )  
619 )  
620 )  
621 )  
622 )  
623 )  
624 )  
625 )  
626 )  
627 )  
628 )  
629 )  
630 )  
631 )  
632 )  
633 )  
634 )  
635 )  
636 )  
637 )  
638 )  
639 )  
640 )  
641 )  
642 )  
643 )  
644 )  
645 )  
646 )  
647 )  
648 )  
649 )  
650 )  
651 )  
652 )  
653 )  
654 )  
655 )  
656 )  
657 )  
658 )  
659 )  
660 )  
661 )  
662 )  
663 )  
664 )  
665 )  
666 )  
667 )  
668 )  
669 )  
670 )  
671 )  
672 )  
673 )  
674 )  
675 )  
676 )  
677 )  
678 )  
679 )  
680 )  
681 )  
682 )  
683 )  
684 )  
685 )  
686 )  
687 )  
688 )  
689 )  
690 )  
691 )  
692 )  
693 )  
694 )  
695 )  
696 )  
697 )  
698 )  
699 )  
700 )  
701 )  
702 )  
703 )  
704 )  
705 )  
706 )  
707 )  
708 )  
709 )  
710 )  
711 )  
712 )  
713 )  
714 )  
715 )  
716 )  
717 )  
718 )  
719 )  
720 )  
721 )  
722 )  
723 )  
724 )  
725 )  
726 )  
727 )  
728 )  
729 )  
730 )  
731 )  
732 )  
733 )  
734 )  
735 )  
736 )  
737 )  
738 )  
739 )  
740 )  
741 )  
742 )  
743 )  
744 )  
745 )  
746 )  
747 )  
748 )  
749 )  
750 )  
751 )  
752 )  
753 )  
754 )  
755 )  
756 )  
757 )  
758 )  
759 )  
760 )  
761 )  
762 )  
763 )  
764 )  
765 )  
766 )  
767 )  
768 )  
769 )  
770 )  
771 )  
772 )  
773 )  
774 )  
775 )  
776 )  
777 )  
778 )  
779 )  
770 )  
771 )  
772 )  
773 )  
774 )  
775 )  
776 )  
777 )  
778 )  
779 )  
780 )  
781 )  
782 )  
783 )  
784 )  
785 )  
786 )  
787 )  
788 )  
789 )  
790 )  
791 )  
792 )  
793 )  
794 )  
795 )  
796 )  
797 )  
798 )  
799 )  
800 )  
801 )  
802 )  
803 )  
804 )  
805 )  
806 )  
807 )  
808 )  
809 )  
810 )  
811 )  
812 )  
813 )  
814 )  
815 )  
816 )  
817 )  
818 )  
819 )  
820 )  
821 )  
822 )  
823 )  
824 )  
825 )  
826 )  
827 )  
828 )  
829 )  
830 )  
831 )  
832 )  
833 )  
834 )  
835 )  
836 )  
837 )  
838 )  
839 )  
840 )  
841 )  
842 )  
843 )  
844 )  
845 )  
846 )  
847 )  
848 )  
849 )  
850 )  
851 )  
852 )  
853 )  
854 )  
855 )  
856 )  
857 )  
858 )  
859 )  
860 )  
861 )  
862 )  
863 )  
864 )  
865 )  
866 )  
867 )  
868 )  
869 )  
870 )  
871 )  
872 )  
873 )  
874 )  
875 )  
876 )  
877 )  
878 )  
879 )  
880 )  
881 )  
882 )  
883 )  
884 )  
885 )  
886 )  
887 )  
888 )  
889 )  
880 )  
881 )  
882 )  
883 )  
884 )  
885 )  
886 )  
887 )  
888 )  
889 )  
890 )  
891 )  
892 )  
893 )  
894 )  
895 )  
896 )  
897 )  
898 )  
899 )  
900 )  
901 )  
902 )  
903 )  
904 )  
905 )  
906 )  
907 )  
908 )  
909 )  
910 )  
911 )  
912 )  
913 )  
914 )  
915 )  
916 )  
917 )  
918 )  
919 )  
920 )  
921 )  
922 )  
923 )  
924 )  
925 )  
926 )  
927 )  
928 )  
929 )  
920 )  
921 )  
922 )  
923 )  
924 )  
925 )  
926 )  
927 )  
928 )  
929 )  
930 )  
931 )  
932 )  
933 )  
934 )  
935 )  
936 )  
937 )  
938 )  
939 )  
930 )  
931 )  
932 )  
933 )  
934 )  
935 )  
936 )  
937 )  
938 )  
939 )  
940 )  
941 )  
942 )  
943 )  
944 )  
945 )  
946 )  
947 )  
948 )  
949 )  
940 )  
941 )  
942 )  
943 )  
944 )  
945 )  
946 )  
947 )  
948 )  
949 )  
950 )  
951 )  
952 )  
953 )  
954 )  
955 )  
956 )  
957 )  
958 )  
959 )  
950 )  
951 )  
952 )  
953 )  
954 )  
955 )  
956 )  
957 )  
958 )  
959 )  
960 )  
961 )  
962 )  
963 )  
964 )  
965 )  
966 )  
967 )  
968 )  
969 )  
960 )  
961 )  
962 )  
963 )  
964 )  
965 )  
966 )  
967 )  
968 )  
969 )  
970 )  
971 )  
972 )  
973 )  
974 )  
975 )  
976 )  
977 )  
978 )  
979 )  
970 )  
971 )  
972 )  
973 )  
974 )  
975 )  
976 )  
977 )  
978 )  
979 )  
980 )  
981 )  
982 )  
983 )  
984 )  
985 )  
986 )  
987 )  
988 )  
989 )  
980 )  
981 )  
982 )  
983 )  
984 )  
985 )  
986 )  
987 )  
988 )  
989 )  
990 )  
991 )  
992 )  
993 )  
994 )  
995 )  
996 )  
997 )  
998 )  
999 )  
1000 )  
1001 )  
1002 )  
1003 )  
1004 )  
1005 )  
1006 )  
1007 )  
1008 )  
1009 )  
1000 )  
1001 )  
1002 )  
1003 )  
1004 )  
1005 )  
1006 )  
1007 )  
1008 )  
1009 )  
1010 )  
1011 )  
1012 )  
1013 )  
1014 )  
1015 )  
1016 )  
1017 )  
1018 )  
1019 )  
1010 )  
1011 )  
1012 )  
1013 )  
1014 )  
1015 )  
1016 )  
1017 )  
1018 )  
1019 )  
1020 )  
1021 )  
1022 )  
1023 )  
1024 )  
1025 )  
1026 )  
1027 )  
1028 )  
1029 )  
1020 )  
1021 )  
1022 )  
1023 )  
1024 )  
1025 )  
1026 )  
1027 )  
1028 )  
1029 )  
1030 )  
1031 )  
1032 )  
1033 )  
1034 )  
1035 )  
1036 )  
1037 )  
1038 )  
1039 )  
1030 )  
1031 )  
1032 )  
1033 )  
1034 )  
1035 )  
1036 )  
1037 )  
1038 )  
1039 )  
1040 )  
1041 )  
1042 )  
1043 )  
1044 )  
1045 )  
1046 )  
1047 )  
1048 )  
1049 )  
1040 )  
1041 )  
1042 )  
1043 )  
1044 )  
1045 )  
1046 )  
1047 )  
1048 )  
1049 )  
1050 )  
1051 )  
1052 )  
1053 )  
1054 )  
1055 )  
1056 )  
1057 )  
1058 )  
1059 )  
1050 )  
1051 )  
1052 )  
1053 )  
1054 )  
1055 )  
1056 )  
1057 )  
1058 )  
1059 )  
1060 )  
1061 )  
1062 )  
1063 )  
1064 )  
1065 )  
1066 )  
1067 )  
1068 )  
1069 )  
1060 )  
1061 )  
1062 )  
1063 )  
1064 )  
1065 )  
1066 )  
1067 )  
1068 )  
1069 )  
1070 )  
1071 )  
1072 )  
1073 )  
1074 )  
1075 )  
1076 )  
1077 )  
1078 )  
1079 )  
1070 )  
1071 )  
1072 )  
1073 )  
1074 )  
1075 )  
1076 )  
1077 )  
1078 )  
1079 )  
1080 )  
1081 )  
1082 )  
1083 )  
1084 )  
1085 )  
1086 )  
1087 )  
1088 )  
1089 )  
1080 )  
1081 )  
1082 )  
1083 )  
1084 )  
1085 )  
1086 )  
1087 )  
1088 )  
1089 )  
1090 )  
1091 )  
1092 )  
1093 )  
1094 )  
1095 )  
1096 )  
1097 )  
1098 )  
1099 )  
1090 )  
1091 )  
1092 )  
1093 )  
1094 )  
1095 )  
1096 )  
1097 )  
1098 )  
1099 )  
1100 )  
1101 )  
1102 )  
1103 )  
1104 )  
1105 )  
1106 )  
1107 )  
1108 )  
1109 )  
1100 )  
1101 )  
1102 )  
1103 )  
1104 )  
1105 )  
1106 )  
1107 )  
1108 )  
1109 )  
1110 )  
1111 )  
1112 )  
1113 )  
1114 )  
1115 )  
1116 )  
1117 )  
1118 )  
1119 )  
1110 )  
1111 )  
1112 )  
1113 )  
1114 )  
1115 )  
1116 )  
1117 )  
1118 )  
1119 )  
1120 )  
1121 )  
1122 )  
1123 )  
1124 )  
1125 )  
1126 )  
1127 )  
1128 )  
1129 )  
1120 )  
1121 )  
1122 )  
1123 )  
1124 )  
1125 )  
1126 )  
1127 )  
1128 )  
1129 )  
1130 )  
1131 )  
1132 )  
1133 )  
1134 )  
1135 )  
1136 )  
1137 )  
1138 )  
1139 )  
1130 )  
1131 )  
1132 )  
1133 )  
1134 )  
1135 )  
1136 )  
1137 )  
1138 )  
1139 )  
1140 )  
1141 )  
1142 )  
1143 )  
1144 )  
1145 )  
1146 )  
1147 )  
1148 )  
1149 )  
1140 )  
1141 )  
1142 )  
1143 )  
1144 )  
1145 )  
1146 )  
1147 )  
1148 )  
1149 )  
1150 )  
1151 )  
1152 )  
1153 )  
1154 )  
1155 )  
1156 )  
1157 )  
1158 )  
1159 )  
1150 )  
1151 )  
1152 )  
1153 )  
1154 )  
1155 )  
1156 )  
1157 )  
1158 )  
1159 )  
1160 )  
1161 )  
1162 )  
1163 )  
1164 )  
1165 )  
1166 )  
1167 )  
1168 )  
1169 )  
1160 )  
1161 )  
1162 )  
1163 )  
1164 )  
1165 )  
1166 )  
1167 )  
1168 )  
1169 )  
1170 )  
1171 )  
1172 )  
1173 )  
1174 )  
1175 )  
1176 )  
1177 )  
1178 )  
1179 )  
1170 )  
1171 )  
1172 )  
1173 )  
1174 )  
1175 )  
1176 )  
1177 )  
1178 )  
1179 )  
1180 )  
1181 )  
1182 )  
1183 )  
1184 )  
1185 )  
1186 )  
1187 )  
1188 )  
1189 )  
1180 )  
1181 )  
1182 )  
1183 )  
1184 )  
1185 )  
1186 )  
1187 )  
1188 )  
1189 )  
1190 )  
1191 )  
1192 )  
1193 )  
1194 )  
1195 )  
1196 )  
1197 )  
1198 )  
1199 )  
1190 )  
1191 )  
1192 )  
1193 )  
1194 )  
1195 )  
1196 )  
1197 )

## TABLE OF CONTENTS

	<u>Page(s)</u>
I. INTRODUCTION .....	1
A. Summary of Classification and Treatment .....	3
B. Summary of Voting On The Plan .....	5
II. HISTORY OF THE DEBTOR .....	7
A. The Debtor's Business.....	7
B. Events Leading Up To Chapter 11 Filing.....	7
III. EVENTS DURING CHAPTER 11 CASE .....	8
A. FDIC Seizure Of The Debtor's Books And Records .....	8
B. Recovery Of Assets In The Debtor's Case.....	9
1. Recovery of Tax Refunds .....	9
2. Rabbi Trust Complaint.....	11
3. Tax NOLs.....	12
4. Liquidation Of Personal Property .....	12
C. Proofs Of Claim Filed In The Debtor's Case .....	13
1. Proof Of Claim Filed By The FDIC .....	13
2. General Unsecured Claims .....	14
D. The Debtor's Claim In The Bank's Receivership Estate .....	14
E. General Pleadings Filed In Debtor's Case.....	15
1. First Day Motions .....	15
2. Schedules And Statement Of Financial Affairs .....	15
3. Modification Of Lease .....	15
4. Interim Compensation For Professionals And Insider Compensation .....	16
5. Motion To Limit Trading Of Common Stock.....	16

1	F. Appointment Of Committee .....	17
2	G. Retention Of Professionals.....	17
3	H. Officers and Members of the Board of Directors .....	18
4	I. Current Value of Debtor's Assets.....	18
5	1. Cash on Hand.....	18
6	2. Tax Refunds.....	18
7	3. Other Assets .....	18
8	IV. SUMMARY OF THE PLAN OF REORGANIZATION .....	19
9	A. Summary Of Classification Of Treatment Of Claims And Interests Under	
10	The Plan. ....	20
11	1. Unclassified Claims .....	20
12	a. Administrative Claims .....	20
13	i. Treatment .....	20
14	ii. Deadlines.....	22
15	b. Priority Tax Claims.....	23
16	2. Classification and Treatment of Claims.....	23
17	a. Classes Of Claims And Interests.....	23
18	i. Class 1 (Secured Claims).....	23
19	ii. Class 2 (Priority Claims).....	24
20	iii. Class 3 (General Unsecured Claims) .....	24
21	iv. Class 4 (Convenience Claims).....	26
22	v. Class 5 (Holders of Interests In the Debtor) .....	26
23	B. Executory Contracts And Unexpired Leases.....	26
24	C. Implementation Of The Plan.....	27
25	1. Distributions and Actions on the Effective Date. ....	27
26	2. Liquidation of Remaining Assets.....	27
27		
28		

1	3. Participation Of Post-Effective Date Board Of Directors.....	28
2	4. Distributions To Class 3.....	28
3	5. Form Of Distribution/Undeliverable Distributions.....	29
4	6. Corporate Matters Regarding The Debtor. ....	30
5	a. Cancellation Of Equity Interests .....	30
6	b. Dissolution Of Debtor.....	30
7	7. Maintenance of Bank Accounts .....	31
8	8. Prosecution of Recovery Rights and Recovery Rights Against Insiders.....	31
9	9. Effect of Confirmation.....	32
10	10. Nondischarge And Injunction.....	32
11	a. Nondischarge Of Debtor.....	32
12	b. Injunction. ....	32
13	11. Retention Of Jurisdiction. ....	33
14	12. Modification of the Plan. ....	34
15	13. Objections to Claims.....	35
16	14. Limitation of Liability.....	36
17	15. Indemnification. ....	36
18	V. CERTAIN FEDERAL INCOME TAX CONSEQUENCES.....	36
19	A. Introduction.....	36
20	B. Federal Income Tax Consequences to Debtor .....	37
21	C. Federal Income Tax Consequences To Creditors .....	38
22	1. Consequences to Holders of Class 3 Allowed Claims (General Unsecured Claims).....	38
23	a. Recognition of Gain or Loss Generally.....	38
24	2. Other Tax Considerations. ....	39
25	a. Market Discount.....	39

1	b.	Withholding .....	39
2	3.	Receipt Of Interest .....	39
3	VI.	VOTING AND PLAN CONFIRMATION STANDARDS .....	40
4	A.	Voting On The Plan .....	40
5	1.	Classes Entitled To Vote.....	40
6	a.	What Is an Allowed Claim/Interest.....	41
7	b.	What Is an Impaired Claim.....	41
8	c.	Who is Not Entitled to Vote.....	41
9	d.	Votes Necessary to Confirm the Plan.....	42
10	e.	Votes Necessary for a Class to Accept the Plan.....	42
11	2.	How To Vote.....	42
12	B.	Confirmation Of The Plan .....	42
13	1.	Hearing On Confirmation Of The Plan.....	42
14	C.	Feasibility and Risk Factors.....	44
15	D.	Best Interests Of Creditors Test.....	45
16	E.	Classification.....	46
17	1.	No Unfair Discrimination .....	46
18	2.	Fair And Equitable Test.....	47
19	VII.	ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN OF LIQUIDATION .....	47
20	VIII.	RECOMMENDATION AND CONCLUSION.....	48
21			
22			
23			
24			
25			
26			
27			
28			

I.

## INTRODUCTION

Imperial Capital Bancorp, Inc. (the "Debtor"), debtor and debtor in possession in the above-captioned case, Filed<sup>1</sup> its voluntary petition under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), on December 18, 2009. The Debtor is distributing this Disclosure Statement to solicit acceptances of the "Chapter 11 Liquidating Plan of Reorganization for Debtor Imperial Capital Bancorp, Inc., a Delaware Corporation Dated October 4, 2010" (the "Plan") proposed by the Debtor and Filed with the Bankruptcy Court, a copy of which is attached hereto as Exhibit "A."

The Plan contemplates the liquidation of all of the Debtor's assets and the termination of all of the Debtor's business operations. The Debtor has prepared the Disclosure Statement pursuant to Bankruptcy Code section 1125 in connection with its solicitation of votes on the Plan. The purpose of the Disclosure Statement is to provide information of a kind and in sufficient detail to enable the holders of claims in impaired classes to make an informed judgment whether to accept or reject the Plan and to inform holders of unclassified claims, classified claims, and equity interests of their treatment under the Plan. Neither the Debtor nor the Court has authorized the communication of any information about the Plan other than the information contained in the Disclosure Statement and the related materials transmitted herewith or Filed with the Bankruptcy Court.

On December \_\_, 2010, after notice and a hearing (the "Disclosure Statement Hearing"), the Bankruptcy Court approved the Disclosure Statement as containing "adequate information" of a kind and in sufficient detail to enable a hypothetical, reasonable investor typical of holders of claims or equity interests to make informed judgments about the Plan. A copy of the Bankruptcy Court's order approving the Disclosure Statement (the "Disclosure Statement Order") is annexed hereto as Exhibit "B". Approval of the Disclosure Statement by the Bankruptcy Court does

<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Plan, a copy of which is attached hereto as Exhibit "A."

1 not indicate that the Bankruptcy Court either has passed on the merits of the Plan or recommends  
2 acceptance or rejection of the Plan.

3 For the convenience of all parties, the terms of the Plan are summarized in the  
4 Disclosure Statement. Although the Debtor believes that the Disclosure Statement accurately  
5 describes the Plan, all summaries of the Plan contained in the Disclosure Statement are qualified by  
6 the Plan itself, the exhibits thereto, and the documents described therein, which control in the event  
7 of any inconsistency with or incompleteness in the summaries provided in the Disclosure Statement.  
8 Accordingly, the Debtor urges each recipient to review carefully the contents of the Disclosure  
9 Statement, the Plan, and the other documents that accompany or are referred to in the Disclosure  
10 Statement or the Plan before making a decision to accept or reject the Plan.

11 Attached as exhibits to this Disclosure Statement are (1) the Plan (Exhibit "A");  
12 (2) the Disclosure Statement Order (Exhibit "B"); and (3) Balance Sheet as of August 31, 2010  
13 (Exhibit "C"). Unless otherwise specified herein, this Disclosure Statement is based upon  
14 information available to the Debtor as of the date of the Disclosure Statement, and does not reflect  
15 events that may occur subsequent to that date, which may have a material impact on the information  
16 contained in the Disclosure Statement. The Debtor will not make any effort to supplement or amend  
17 the Disclosure Statement to reflect changes beyond that date. **THE DEBTOR DOES NOT**  
18 **REPRESENT OR WARRANT THAT THIS DISCLOSURE STATEMENT IS COMPLETE**  
19 **OR THAT THE INFORMATION CONTAINED HEREIN IS FREE FROM ANY**  
20 **INACCURACY OR OMISSION.**

21 **ALTHOUGH THE DEBTOR'S PROFESSIONAL ADVISORS HAVE ASSISTED**  
22 **IN THE PREPARATION OF THIS DISCLOSURE STATEMENT BASED UPON THE**  
23 **FACTUAL INFORMATION AND ASSUMPTIONS FOR THE FINANCIAL, BUSINESS, AND**  
24 **ACCOUNTING DATA PROVIDED BY THE DEBTOR, THE DEBTOR'S PROFESSIONALS**  
25 **HAVE NOT INDEPENDENTLY VERIFIED THE INFORMATION SET FORTH IN THIS**  
26 **DISCLOSURE STATEMENT AND MAKE NO REPRESENTATIONS OR WARRANTIES AS**  
27 **TO SUCH INFORMATION. NOR DO SUCH PROFESSIONALS REPRESENT OR WARRANT**

1 THAT THIS DISCLOSURE STATEMENT IS COMPLETE OR IS FREE FROM ANY  
2 INACCURACY OR OMISSION.

3 ANY INFORMATION, REPRESENTATION, OR INDUCEMENT MADE TO  
4 SECURE OR OBTAIN ACCEPTANCES OR REJECTIONS OF THE PLAN THAT ARE OTHER  
5 THAN, OR ARE INCONSISTENT WITH, THE INFORMATION CONTAINED IN THIS  
6 DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY ANY PERSON IN  
7 ARRIVING AT A DECISION TO VOTE FOR OR AGAINST THE PLAN. ANY SUCH  
8 ADDITIONAL INFORMATION, REPRESENTATIONS, AND INDUCEMENTS SHOULD BE  
9 IMMEDIATELY REPORTED TO THE ATTENTION OF THE DEBTOR AND THE  
10 BANKRUPTCY COURT.

11 **CAUTIONARY STATEMENT**

12 To the extent any information included in this Disclosure Statement contains forward  
13 looking statements within the meaning of the Securities Act of 1933, as amended, and the Securities  
14 Exchange Act of 1934, as amended, such forward looking information is based on information  
15 available when such statements were made and is subject to risks and uncertainties that could cause  
16 actual results to differ materially from those expressed in the statements.

17 **THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR**  
18 **DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE**  
19 **COMMISSION PASSED UPON THE ACCURACY OR THE ADEQUACY OF THE**  
20 **STATEMENTS CONTAINED HEREIN.**

21 **A. Summary of Classification and Treatment**

22 The following is a summary of the classification of all claims and interests under the  
23 Plan and the proposed treatment of each such class under the Plan. This summary is qualified in its  
24 entirety by reference to more detailed provisions set forth in the Plan, the terms of which are  
25 controlling.

TYPE OF CLAIM OR INTEREST	TREATMENT	ANTICIPATED RECOVERY
<b>Administrative Expense Claims</b>	Each holder of an Allowed Administrative Claim shall receive Cash equal to the unpaid portion of such Allowed Administrative Claim on the later of (x) the Effective Date and (y) the date a Final Order of the Bankruptcy Court is Entered allowing the Administrative Claim.	100%
<b>Priority Tax Claims</b>	Each holder of an Allowed Tax Claim shall receive Cash equal to the amount of the Allowed Tax Claim on the later of the (x) Effective Date, and (y) the date an Order of the Bankruptcy Court is Entered Allowing the Tax Claim.	100%
<b>Secured Claims (Class 1)</b>	Each holder of an Allowed Secured Claim shall receive on the later of (x) the Effective Date and (y) the date an Order of the Bankruptcy Court is entered allowing the Secured Claim either (i) Cash equal in the amount of the Allowed Secured Claim or (ii) possession of the property in which the holder of the Allowed Secured Claim has a perfected, unavoidable and enforceable lien.	100%

TYPE OF CLAIM OR INTEREST	TREATMENT	ANTICIPATED RECOVERY
<b>Priority Claims (Class 2)</b>	Each holder of an Allowed Priority Claim shall receive Cash equal to the amount of the Allowed Priority Claim on the later of (x) the Effective Date and (y) the date an Order of the Bankruptcy Court is Entered allowing the Priority Claim	100%
<b>General Unsecured Claims (Class 3)</b>	Each holder of an Allowed Unsecured Claim shall receive its pro-rata share of Net Estate Proceeds.	Range from 10% to 40%, depending on the outcome of the Tax Refund Complaint and objections to the FDIC's proof of claim ( <u>see</u> section IV.A.2.a.iii, <u>infra</u> )
<b>Convenience Claims (Class 4)</b>	Each holder of an Allowed Convenience Claim shall receive Cash equal to 100% of the amount of the Allowed Convenience Claim on the later of (x) the Effective Date and (y) the date an Order of the Bankruptcy Court is entered allowing the Convenience Claim.	100%
<b>Interests (Class 5)</b>	Holders of Class 5 Allowed Interests shall neither receive nor retain any property under the Plan and all Interests of the Debtor shall be cancelled as of the Effective Date.	0%

## B. Summary of Voting On The Plan

The Court may confirm the Plan if at least one noninsider impaired class of claims has accepted and certain statutory requirements are met as to both nonconsenting members within a consenting class and as to dissenting classes. A class of claims has accepted the Plan when more than one-half in number and at least two-thirds in amount of the allowed claims actually voting, vote

1 in favor of the Plan. A class of interests has accepted the Plan when at least two-thirds in amount of  
 2 the allowed interests of such class actually voting have accepted it. It is important to remember that  
 3 even if the requisite number of votes to confirm the Plan are obtained, the Plan will not bind the  
 4 parties unless and until the Court makes an independent determination that confirmation is  
 5 appropriate. That is the subject of any upcoming confirmation hearing.

6 In this case, the Debtor believes that Class 3 (General Unsecured Claims) is impaired  
 7 and therefore entitled to vote. Classes 1 (Secured Claims), 2 (Priority Claims) and 4 (Convenience  
 8 Claims) are unimpaired and, therefore, do not vote. Class 5 (Holders of Interests of the Debtor) will  
 9 not receive or retain anything under the Plan, and is deemed to reject the Plan. A party that disputes  
 10 the Debtor's characterization of its claim or interest as unimpaired may request a finding of  
 11 impairment from the Court in order to obtain the right to vote.

12 **After carefully reviewing this Disclosure Statement and the Plan, including the  
 13 exhibits, each holder of an impaired claim should vote on the enclosed ballot and return it in  
 14 the envelope provided.**

15 **TO BE COUNTED, YOUR BALLOT MUST BE COMPLETELY FILLED IN,  
 16 SIGNED, AND TRANSMITTED IN THE MANNER SPECIFIED IN THE BALLOT SO  
 17 THAT IT IS RECEIVED BY THE BALLOT TABULATOR BY THE VOTING DEADLINE  
 18 SPECIFIED IN THE BALLOT. PLEASE FOLLOW CAREFULLY ALL INSTRUCTIONS  
 19 CONTAINED IN THE BALLOT. ANY BALLOTS RECEIVED WHICH DO NOT  
 20 INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN OR WHICH  
 21 INDICATE BOTH AN ACCEPTANCE AND REJECTION OF THE PLAN WILL NOT BE  
 22 COUNTED.**

23 **THE DEBTOR BELIEVES THAT THE PLAN PROVIDES THE BEST  
 24 FEASIBLE RECOVERY TO THE HOLDERS OF CLAIMS IN CLASS 3, AND THAT  
 25 ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF SUCH HOLDERS. THE  
 26 DEBTOR RECOMMENDS THAT THE HOLDERS OF CLAIMS IN CLASS 3 VOTE TO  
 27 ACCEPT THE PLAN.**

II.

## **HISTORY OF THE DEBTOR**

## A. The Debtor's Business

The Debtor was a diversified bank holding company headquartered in La Jolla, California. It owns 100% of the common stock of Imperial Capital Bank (the "Bank"), a California state chartered commercial bank that had approximately \$4 billion in assets and six retail branches located in California (Beverly Hills, Costa Mesa, Encino, Glendale, San Diego, and San Francisco), two retail branches located in Nevada (Carson City and Las Vegas), and one retail branch located in Baltimore, Maryland. On the Petition Date, the California Department of Financial Institutions (the "DFI") closed the Bank and appointed and tendered receivership to the Federal Deposit Insurance Corporation (the "FDIC"). Immediately thereafter, the FDIC consummated a sale of certain of the Bank's assets and liabilities to City National Bank. The Bank had been in business for thirty-five years.

## **B. Events Leading Up To Chapter 11 Filing**

Prior to the FDIC's seizure, the Debtor and Bank were primarily engaged in (i) originating and purchasing real estate loans secured by income producing properties for retention in their loan portfolio, (ii) originating entertainment finance loans, and (iii) accepting customer deposits through certificates of deposit, money market, passbook, and demand deposit accounts.

From September 2000 to December 2002, the Debtor created five trusts (the "Trusts") that issued preferred securities. Specifically, the Trusts are ITLA Capital Statutory Trust I ("Trust I"), ITLA Capital Statutory Trust II ("Trust II"), ITLA Capital Statutory Trust III ("Trust III"), ITLA Capital Statutory Trust IV ("Trust IV"), and ITLA Capital Statutory Trust V ("Trust V").

Trust I issued \$14 million of 10.6% cumulative trust preferred securities in September 2000. Five months later, in February 2001, Trust II issued \$15 million of 10.2% cumulative trust preferred securities. In October 2002, Trust III issued \$20 million of variable rate cumulative trust preferred securities. Finally, in December 2002, Trust IV issued \$10 million of variable rate cumulative trust securities and Trust V issued \$25 million of variable rate cumulative trust preferred

1 securities. As of the Petition Date, the total amount of trust preferred securities (the "Trust  
2 Securities") was approximately \$86.6 million.

3 In the five years prior to the Petition Date, the Bank engaged in a significant amount  
4 of residential and condominium construction lending. The economic events of 2008 and 2009  
5 dramatically impacted the Bank with respect to its origination and purchase of real estate loans, as  
6 the Bank's construction borrowers, who rely on the sales of homes to repay the Bank's loans, were  
7 not able to find buyers. Some of those construction borrowers defaulted on their Bank loans.

8 On December 29, 2008, trading in the Debtor's shares on the New York Stock  
9 Exchange ("NYSE") was suspended due to the Debtor's failure to meet the NYSE's minimum global  
10 market capitalization thresholds. As of the Petition Date, the Debtor's shares were currently trading  
11 on the Pink Sheets under the symbol "IMPC". The Debtor estimates that there are 76 holders of  
12 record of the Debtor's common stock, which represent an estimated 1,268 beneficial shareholders  
13 with a total of 5,248,760 shares outstanding.

14 After the seizure of the Bank, the Debtor commenced this chapter 11 case to protect  
15 its assets and develop a confirmable reorganization plan by utilizing those assets and potential  
16 business opportunities.

### 17 III.

#### 18 EVENTS DURING CHAPTER 11 CASE

##### 19 A. FDIC Seizure Of The Debtor's Books And Records

20 The FDIC seized the Bank without any prior notice and, on the Petition Date, took  
21 possession of the entirety of the premises used by both the Bank and the Debtor at 888 Prospect  
22 Street, La Jolla, California. The FDIC took possession of books, records, documents, and personal  
23 property without regard to the differentiation between the assets and property of the Debtor and  
24 those of the Bank.

25 Among other things, the FDIC seized the Debtor's hard drive containing essential  
26 financial information and records. Complicating matters further was the FDIC's immediate sale of  
27 the Bank's assets to City National Bank ("CNB") which, in turn, took possession of the office  
28 premises previously occupied by the Bank. Accordingly, within a very short period of time, the

1 Debtor was confronted with the loss of access to substantially all of its books and records, the loss of  
 2 access to its computers and its internet site, and the termination of substantially all of its employees.  
 3 Due to the overwhelming presence of FDIC lawyers and marshals, it was not possible to physically  
 4 prevent the FDIC from removing many items of personal property and records which belonged to  
 5 the Debtor and not to the Bank.

6 The Debtor, through counsel, attempted to work with the FDIC to restore order and to  
 7 recover personal property which the FDIC had removed. Additionally, the Debtor attempted to  
 8 resolve certain disagreements with the FDIC as to access to particular books and records and to the  
 9 physical offices that had been used exclusively by the Debtor, and not by the Bank. The Debtor and  
 10 FDIC eventually entered into an arrangement under which the FDIC could be given access to  
 11 additional materials and conduct an on-site inspection, while at the same time preserving all  
 12 attorney-client and other privileges to the Debtor and obligating the FDIC to return materials,  
 13 including the Debtor's hard drive, which had been taken during the seizure.

14 **B. Recovery Of Assets In The Debtor's Case**

15 Throughout its chapter 11 case, the Debtor has focused on maximizing the value of its  
 16 assets for the benefit of its creditors. The Debtor's most valuable assets are (i) its tax refunds for the  
 17 years 2008 and 2009, (ii) the property contained in a Rabbi Trust account, and (iii) the Debtor's tax  
 18 net operating losses (the "NOLs").

19 **1. Recovery of Tax Refunds**

20 Prior to the Petition Date, on December 12, 1997, the Debtor (at that time known as  
 21 ITLA Capital Corporation), and the Bank (at that time known as Imperial Thrift & Loan  
 22 Association) entered into a tax allocation agreement (the "Tax Allocation Agreement"). Entry into  
 23 the Tax Allocation Agreement allowed the Debtor and Bank to form an affiliated group that was  
 24 legally authorized to file consolidated tax returns. Pursuant to the Tax Allocation Agreement, the  
 25 Debtor has filed tax returns for the affiliated group, though separate pro forma calculations were  
 26 prepared as if both the Debtor and the Bank filed tax returns on a separate entity basis. The Debtor  
 27 also made all income tax payments for the affiliated group's consolidated returns.

1                   On September 23, 2009, the Debtor filed its Form 1139 Corporation Application for  
 2 Tentative Refund for the tax year ended 2008 (the "2008 Return"). In the 2008 Return, the Debtor  
 3 sought to carry back losses for the tax year ended 2008 to the tax years ended 2006 and 2007 and tax  
 4 credits from 2006 to 2005 for a total refund of approximately \$17.1 million (the "2008 Refund").  
 5 On or about November 17, 2009, the Debtor received from the IRS approximately \$5.9 million on  
 6 account of the 2008 Return (the "Partial 2008 Refund"). Shortly thereafter, but prior to the Petition  
 7 Date, the Debtor turned the Partial 2008 Refund over to the Bank.

8                   In August 2010, the Debtor filed its 2009 consolidated tax return (the "2009 Return"),  
 9 as well as amended tax returns for years 2004 through 2007 to reflect the net operating loss  
 10 carryback from 2009 to each of those years, and to claim the refunds from the loss carrybacks  
 11 (collectively, the "2009 Returns"). The amount of the refund requested in the 2009 Returns is  
 12 approximately \$17.9 million (the "2009 Return" and the "2008 Return" shall be collectively referred  
 13 to as the "Tax Returns").

14                   The refunds requested in the Debtor's Tax Returns (collectively, the "Tax Refunds")  
 15 are among the largest assets of the Debtor's estate. Since the Tax Refunds are property of the  
 16 Debtor's estate, the Debtor is entitled to recovery of all of the Tax Refunds and to distribute such  
 17 funds through a chapter 11 plan. However, the FDIC has asserted that it is entitled to all or a  
 18 significant portion of the Tax Refunds in its capacity as receiver for the Bank.

19                   In order to resolve the dispute over ownership of the Tax Refunds, on August 12,  
 20 2010, the Debtor filed its "Complaint (I) Seeking a Declaratory Judgment Regarding Ownership of  
 21 Certain Tax Refunds; and (II) For Actual and Punitive Damages and For an Injunction for Violation  
 22 of the Automatic Stay" (the "Tax Refund Complaint"), which commenced adversary proceeding  
 23 number 10-90386-LA11.

24                   Along with seeking a declaratory judgment that the Tax Refunds are property of the  
 25 Debtor's estate and that the FDIC is a general unsecured creditor of the Debtor's estate, the  
 26 Complaint seeks a determination that the FDIC violated the automatic stay by filing certain notices  
 27 with the IRS after the Petition Date.

1                   In late August 2010, the FDIC filed a motion to withdraw the reference of the Tax  
 2 Refund Complaint to the United States District Court for the Southern District of California (the  
 3 "District Court"). As of the date of the filing of this Disclosure Statement, the motion to withdraw  
 4 the reference remained pending. However, the Debtor has consented to withdrawal of the reference  
 5 to the District Court of the Tax Refund cause of action in the Tax Refund Complaint.

6                   On August 24, 2010, the Debtor and FDIC entered into the "Stipulation Between  
 7 Imperial Capital Bancorp, Inc. and the Federal Deposit Insurance Corporation, as Receiver of  
 8 Imperial Capital Bank to Establish Reserve Account" (the "Tax Reserve Stipulation"), which  
 9 provided for the escrowing of tax refunds (the "Tax Escrow Stipulation") pending resolution of the  
 10 Complaint. The Bankruptcy Court entered an order approving the Tax Escrow Stipulation on the  
 11 date it was filed.

12                   **2.       Rabbi Trust Complaint**

13                   The Debtor and Union Bank of California, N.A. ("Union Bank"), as trustee, are  
 14 parties to the "Imperial Capital Bancorp Rabbi Trust Agreement Amended and Restated Effective  
 15 January 1, 2005" (the "Rabbi Trust Agreement"). The trust (the "Rabbi Trust") created by the Rabbi  
 16 Trust Agreement was established to provide a source of funds to satisfy the Debtor's obligations  
 17 under the following six nonqualified benefit plans: (1) Imperial Bancorp Supplemental Executive  
 18 Retirement Plan, as amended and restated effective January 1, 2005; (2) Imperial Capital Bancorp  
 19 Salary Continuation Plan, as amended and restated effective February 1, 2006; (3) Imperial Capital  
 20 Bancorp CNDC Plan (Employer Securities), effective January 1, 2003; (4) Imperial Capital Bancorp  
 21 CNDC Plan (Non-Employer Securities), effective January 1, 1997; (5) Imperial Capital Bancorp  
 22 409A CNDC 2004 Plan (Employer Securities), effective January 1, 2005; and (6) Imperial Capital  
 23 Bancorp 409A CNDC 2005 Plan (Non-Employer Securities), effective January 1, 2005.

24                   As of the Petition Date, the value of the Rabbi Trust was approximately \$2 million.  
 25 Additionally, the Rabbi Trust is the owner of a variable life insurance policy (the "Policy") with the  
 26 Equitable Life Assurance Society of the United States ("Equitable").

27                   Under the terms of the Trust Agreement, in the event of the Debtor's insolvency, all  
 28 Rabbi Trust assets are subject to the claims of the Debtor's general creditors. Accordingly, the

1 Debtor was entitled to obtain the transfer of all the assets in the Rabbi Trust, including the Policy, for  
 2 distribution to its general creditors.

3 In order to obtain the funds in the Rabbi Trust for its estate, the Debtor filed a  
 4 complaint (the "Rabbi Trust Complaint") against Union Bank of California, N.A. ("Union Bank")  
 5 and the beneficiaries of the Rabbi Trust Agreement, Brian Benson, Timothy Doyle, George  
 6 Haligowski, Thom Hobbs, David Hunt, Charles Kohl, Rosemary Lennon, Lyle Lodwick, Phillip  
 7 Lombardi, and Scott Wallace (collectively, the "Rabbi Trust Defendants").

8 In the Complaint, the Debtor sought entry of an order requiring Union Bank to turn  
 9 over to the Debtor the assets of the Rabbi Trust and a declaratory judgment against the Rabbi Trust  
 10 Defendants that the Rabbi Trust assets were property of the estate. In July 2010, Union Bank agreed  
 11 to the terms of a stipulated judgment that provided the Debtor with the relief requested in the  
 12 Complaint. Over the next two months, the Debtor obtained default judgments against seven of the  
 13 ten individual defendants, and entered into stipulated judgments with the three other individual  
 14 defendants. As of the filing of the Disclosure Statement, the Debtor recovered nearly all of the  
 15 funds in the Rabbi Trust and cash surrender value of the Policy, which collectively total  
 16 approximately \$6.7 million. The adversary proceeding was closed by the Court on September 27,  
 17 2010.

18                   **3. Tax NOLs**

19 The Debtor estimates that it possesses approximately \$280 million of NOLs, and  
 20 believes that it might be able to exploit the NOLs and develop a plan of reorganization based on the  
 21 NOLs that provides greater value to creditors than would be provided under a liquidating plan.  
 22 While the Plan is a liquidating plan, the Debtor has reserved the right to amend the Plan to provide  
 23 an alternative to liquidation that would likely involve the participation of a third party investor. To  
 24 that end, the Debtor will seek approval of an application to employ KPMG, and the hearing to  
 25 consider KPMG's employment is presently scheduled to take place in November 2010.

26                   **4. Liquidation Of Personal Property**

27 During its case, the Debtor also obtained Bankruptcy Court approval to liquidate  
 28 certain personal property. On March 10, 2010, the Court entered an order authorizing the Debtor to

1 sell four of its automobiles. Additionally, on July 9, 2010, the Court entered an order allowing the  
 2 Debtor to sell 1,900 shares of Prudential Financial stock. Finally, on August 11, 2010, the Debtor  
 3 received Court authorization to employ Fischer Auction Company, Inc. ("Fischer") to sell certain  
 4 personal property, and Fischer conducted an auction of the Debtor's office furnishings in September  
 5 2010. Collectively, the Debtor estimates that it obtained the amount of \$200,000 for the  
 6 aforementioned personal property.

7 **C. Proofs Of Claim Filed In The Debtor's Case**

8 On April 15, 2010, the Debtor filed its "Ex Parte Motion for Order Establishing a Bar  
 9 Date for Filing Proofs of Claim or Interest Pursuant to 11 U.S.C. § 501" (the "Bar Date Motion")  
 10 [Docket No. 136]. This Court granted the Bar Date Motion on the day that it was filed, and  
 11 established a general claims bar date of June 14, 2010.

12 **1. Proof Of Claim Filed By The FDIC**

13 On or about June 25, 2010, the FDIC filed a proof of claim in the Debtor's case (the  
 14 "FDIC Claim") in the aggregate sum of \$88,900,000. Among other things, the FDIC asserts in the  
 15 FDIC Claim that at least \$48.2 million of the FDIC Claim is based upon the Debtor's alleged  
 16 obligation under Bankruptcy Code section 365(o) to assume and immediately cure the capital  
 17 deficits of the Bank (the "Capital Maintenance Claims"). The FDIC also asserts in its claim that the  
 18 Capital Maintenance Claims are entitled to priority status.

19 In order to expeditiously resolve the dispute concerning the allowance and priority of  
 20 the Capital Maintenance Claims, on July 29, 2010, the Debtor filed its "Objection to 'Capital  
 21 Maintenance Claims' Portion of Federal Deposit Insurance Corporation's Proof of Claim" (the  
 22 "Claim Objection") [Docket No. 228]. In the Claim Objection, the Debtor demonstrates, among  
 23 other things, that the Debtor never made any commitment to any regulatory agency to maintain the  
 24 capital of the Bank, and that the Capital Maintenance Claims should be disallowed. A hearing to  
 25 consider the Claim Objection is set for November 18, 2010. The FDIC has filed a motion to  
 26 withdraw the reference of the Claim Objection to the District Court, and a hearing to consider the  
 27 withdrawal of the reference had not been set as of the filing of the Disclosure Statement.

28

1                   If the FDIC prevails, it is likely that the Debtor's chapter 11 case will be converted to  
 2 chapter 7, since the Debtor will be unable to satisfy the Capital Maintenance Claims in full pursuant  
 3 to Bankruptcy Code sections 365(o) and 507(a)(9).

4                   The FDIC Claim also contains other claims. First, the FDIC asserts that it is entitled  
 5 to turnover of Tax Refunds, which total approximately \$29 million. Second, the FDIC asserts a  
 6 general unsecured claim in the amount of approximately \$11.5 million based on the following:  
 7 (i) approximately \$4.5 million in insurance proceeds and premium refund claims, and  
 8 (ii) approximately \$7 million in funds relating to the Rabbi Trust. Finally, the FDIC asserts  
 9 unliquidated claims on behalf of the Bank against the Debtor for (i) intercompany charges,  
 10 (ii) amounts in certain of the Debtor's deposit funds, (iii) potential fraudulent transfers made by the  
 11 Bank, and (iv) litigation recovery claims. Aside from the allegations contained in the Tax Refund  
 12 Complaint, the Debtor has not yet evaluated or prepared objections to the non-section 365(o) claims.

13                   **2. General Unsecured Claims**

14                   As of the date of the filing of this Disclosure Statement, the total amount of unsecured  
 15 claims asserted against the Debtor was \$93,327,944.01, which consists primarily of claims asserted  
 16 by the Bank of New York ("BONY") and U.S. Bank National Association ("U.S. Bank"), in their  
 17 capacity as indenture trustees for the Trust Securities.

18                   **D. The Debtor's Claim In The Bank's Receivership Estate**

19                   On March 24, 2010, the Debtor filed a claim in the Bank's receivership estate (the  
 20 "Receivership Claim"). In its Receivership Claim, the Debtor alleges the following claims: (i)  
 21 turnover of tax refunds, (ii) reservation of rights to bring an action based on Bankruptcy Code  
 22 sections 547 and 548, (iii) reimbursement of expenses pursuant to an expense sharing and services  
 23 agreement between the Debtor and Bank, (iv) damages against the FDIC-R for improper asset  
 24 seizures, and (v) recovery of the monies in an account that was improperly transferred to City  
 25 National Bank. The Debtor alleges that the total amount of the Receivership Claim is at least \$7  
 26 million.

On August 6, 2010, the FDIC sent the Debtor a notice of disallowance of the Receivership Claim. Pursuant to 12 U.S.C. § 1821(d)(6), the Debtor is preparing a lawsuit to be filed in the District Court that will challenge the FDIC's disallowance of the Receivership Claim.

**E. General Pleadings Filed In Debtor's Case**

Throughout its case, the Debtor has also filed numerous motions and applications relating to the administration of its chapter 11 case.

## 1. First Day Motions

On the Petition Date, the Debtor filed three emergency motions with the Court: (1) the Motion for an Order Limiting the Scope of Notice (the "Limit Notice Motion"), (2) the Motion for Continuance of Utility Service and Approval of Adequate Assurance of Payment to Utility Companies (the "Utility Motion"), and (3) the Motion for Order Extending Time to File Schedules and Statements (the "Schedule Extension Motion") (collectively, the "First Day Motions"). The Bankruptcy Court entered orders approving all of the First Day Motions.

## 2. Schedules And Statement Of Financial Affairs

Despite not having access to its books and records, on January 21, 2010, the Debtor filed its Schedules and Statement of Financial Affairs ("SOFA"). After obtaining its books and records, the Debtor filed amendments to the Schedules and SOFA on February 23, 2010 and March 1, 2010, respectively. In its amended Schedules, the Debtor estimated that its assets totaled approximately \$40.4 million and that its prepetition liabilities were approximately \$98.7 million.

### 3. Modification Of Lease

Shortly after the Petition Date, the Debtor recognized that it would not need to utilize the 21,903 square feet of La Jolla office space that it had been leasing under the "Agreement of Lease" (the "Lease") with 888 Prospect LJ, LLC (the "Landlord"). The monthly rent under the Lease was approximately \$81,216.00. Rather, the Debtor only needed to utilize one suite (Suite 300) that consisted of approximately 1,736 square feet. Accordingly, the Debtor reached an agreement with the Landlord whereby the Debtor agreed to reject the Lease as of January 31, 2010, and enter into a new month-to-month lease ("New Lease") for Suite 300 whereby the Debtor would only pay monthly rent of \$6,440.56. The Debtor filed and served a motion for approval (the "Lease

1 Motion") to enter into a stipulation (the "Stipulation") to reject the Lease and enter into the New  
 2 Lease, which was approved by the Bankruptcy Court.

3 On September 23, 2010, the Debtor filed a motion for authority to enter into an  
 4 amendment to the New Lease. Under the amendment, the Debtor will be relocating to Suite 210 at  
 5 888 Prospect Avenue, and its rental payments will decrease by over \$1,000/month.

6 **4. Interim Compensation For Professionals And Insider Compensation**

7 On May 3, 2010, the Debtor filed its "Motion for Order Pursuant to 11 U.S.C. § 105  
 8 and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of  
 9 Professionals" (the "Interim Compensation Motion"). Through the Interim Compensation Motion,  
 10 the Debtor sought approval of a procedure that would authorize the professionals employed in this  
 11 case to receive payment of 80% of their fees and 100% of their expenses on a monthly basis. This  
 12 Court entered an order approving the Interim Compensation Motion on June 11, 2010.

13 Additionally, during the Case, the Debtor has filed applications to compensate  
 14 Messrs. Kiley and Rusnak pursuant to Local Bankruptcy Rule 4002-2. The Bankruptcy Court has  
 15 authorized the Debtor to pay Mr. Kiley the amount of \$10,000/month and Mr. Rusnak the amount of  
 16 \$12,333.34/month.

17 **5. Motion To Limit Trading Of Common Stock**

18 As stated above, the Debtor has considered the formulation of a reorganization plan,  
 19 rather than a liquidating plan. Such a plan would likely involve the use of the Debtor's NOLs. In  
 20 theory, the Debtor could enter into a transaction whereby a third party would provide consideration  
 21 to the Debtor for its corporate shell and NOLs. However, a corporation's ability to use its NOLs  
 22 may be reduced or eliminated under certain circumstances. Once all or part of a NOL is disallowed  
 23 on account of an "ownership change" under the Internal Revenue Code, that NOL's use is limited  
 24 forever.

25 Accordingly, to prevent the potential loss of NOLs, the Debtor filed its "Motion for  
 26 Order (A) Limiting Certain Transfers of Equity Interests in the Debtor and (B) Approving Related  
 27 Notice Procedures" (the "NOL Motion"). The relief requested in the NOL Motion was designed to  
 28 provide the Debtor with advance notice of certain transfers that may jeopardize its NOLs, and to

enable the Debtor, if necessary, to obtain substantive relief from this Court to protect those NOLs. This Court entered an order approving the NOL Motion on August 13, 2010.

## **F. Appointment Of Committee**

On March 9, 2010, the Office of the United States Trustee ("UST") appointed a three member official committee of creditors holding unsecured claims against the Debtor (the "Committee"). Official committees appointed under section 1102 of the Bankruptcy Code have, among other rights, the rights (i) to consult with a debtor concerning administration of the case; (ii) to investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the debtor's operations, and any other matter relevant to the case or to the formulation of a plan; and (iii) to participate in the formulation and acceptance or rejection of a plan. The Committee consists of the following entities: (1) US Bank as Trustee for ITLA Capital Statutory Trusts I, II, V; (2) 888 Prospect LJ, LLC; and (3) The Bank of New York Mellon as Indenture Trustee.

## **G. Retention Of Professionals.**

The Debtor received Court approval to employ the following professionals:

- (1) Stutman, Treister & Glatt Professional Corporation ("ST&G") as reorganization counsel for the Debtor (order entered January 20, 2010);
- (2) Squar, Milner, Peterson, Miranda & Williamson LLP as accountants for the Debtor ("Squar") (order entered January 28, 2010);
- (3) Silver Freedman & Taff LLP ("Silver") as special regulatory counsel for the Debtor (order entered January 28, 2010); and
- (4) Ernst & Young, LLP, as tax services provider to the Debtor (order entered April 14, 2010).

The Committee obtained Court approval to employ the following professionals:

- (1) Akin Gump Strauss Hauer & Feld LLP, as counsel to the Committee (order entered April 19, 2010); and
- (2) FTI Consulting, Inc., as financial advisor to the Committee (order entered July 2, 2010).

1                   **H. Officers and Members of the Board of Directors**

2                   The Debtor's Board of Directors consists of Norval L. Bruce, George W. Haligowski,  
 3 Joseph W. Kiley, III, Jeffrey L. Lipscomb, Sandor X. Mayuga, Hirotaka Oribe, and Robert R. Reed.

4                   Mr. Kiley is also the Debtor's Chief Executive Officer. Mr. Anthony Rusnak is Chief  
 5 Operating Officer, General Counsel, and Secretary for the Debtor.

6                   **I. Current Value of Debtor's Assets**

7                   Assuming that the Debtor prevails in the Tax Refund Complaint, as of the filing of  
 8 this Disclosure Statement, the Debtor estimates that its assets total approximately \$42.5 million. See  
 9 Exhibit "C" to this Disclosure Statement (Balance Sheet). Among the more significant assets are the  
 10 following:

11                   **1. Cash on Hand**

12                   As of the date of the filing of this Disclosure Statement (but which is not reflected in  
 13 Exhibit "C", which will be amended prior to the hearing on the Disclosure Statement), the Debtor  
 14 had cash on hand of approximately \$12.2 million, which is presently being held in a number of  
 15 accounts with Bank of America and Torrey Pines Bank. This cash was generated through, inter alia,  
 16 (1) collection of the proceeds in the Rabbi Trust Account, (2) obtaining the cash surrender value of  
 17 two life insurance policies, and (3) the sale of personal property.

18                   **2. Tax Refunds**

19                   As stated above (see section III.B.1, supra), the Debtor estimates that it will receive the  
 20 amount of \$29 million on account of the 2008 and 2009 Tax Refunds. The FDIC has asserted that it is  
 21 entitled to the Tax Refunds, and, as previously discussed (see section III.B.1, supra), an adversary  
 22 proceeding (the Tax Refund Complaint) to resolve this dispute is presently pending before the  
 23 Bankruptcy Court (or the District Court, if it enters an order withdrawing the reference of the Tax  
 24 Refund Complaint) to resolve this dispute.

25                   **3. Other Assets**

26                   The Debtor also possesses approximately \$140,000 in other assets, including:  
 27 (i) prepaid Delaware state taxes (\$99,945); (ii) rental security deposit (\$30,971.51); and (iii)  
 28 miscellaneous accounts receivable (\$13,860.77).

IV.

## **SUMMARY OF THE PLAN OF REORGANIZATION**

The Plan divides the Debtor's prepetition, non-tax claims into four categories: (1) Secured Claims, (2) Priority Claims, (3) General Unsecured Claims, and (4) Convenience Claims. A fifth class is for the holders of interests in the Debtor.

The Debtor does not believe that it has any secured claims, but to the extent that there are any such claims, those claims will be left unimpaired, i.e., those claimants will have available to them all rights and remedies that would otherwise be available were the Debtor not in a chapter 11 proceeding.

To the extent the Debtor has any allowed non-tax priority unsecured claims, the Plan provides for those claims to be unimpaired.

General Unsecured Claims (other than Convenience Claims that are in Class 4) are all included in Class 3. Class 3 claims are impaired. The Plan provides that each holder of an Allowed Unsecured Claim shall receive, on account of and in full satisfaction of its Allowed Unsecured Claim, its pro-rata share of the Net Estate Proceeds, a defined term under the Plan. Essentially, Net Estate Proceeds are the monies remaining after all costs and expenses of administration have either been paid or reserved for and all senior claims (such as secured claims and priority unsecured claims, if any) have been paid in full.

Convenience Claims are unsecured claims, the allowed amount of which are \$10,000 or less or which are reduced to \$10,000. The Plan provides for each holder of an Allowed Convenience Claim to receive Cash equal to 100% of the amount of the Allowed Convenience Claim.

Class 5 is comprised of holders of Interests in the Debtor. Holders of Class 5 Allowed Interests shall neither receive nor retain any property under the Plan and all Interests of the Debtor shall be cancelled as of the Effective Date of the Plan.

THE DESCRIPTION OF THE PLAN SET FORTH BELOW IS ONLY A SUMMARY OF SOME OF THE MORE MATERIAL PROVISIONS OF THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS

1 SET FORTH IN THE PLAN, THE TERMS OF WHICH ARE CONTROLLING OVER THE  
 2 SUMMARY SET FORTH BELOW. The Plan is attached hereto as Exhibit "A" and is made a part  
 3 of this Disclosure Statement.

4 **A. Summary Of Classification Of Treatment Of Claims And Interests Under The  
 5 Plan.**

6 The following discussion summarizes the classification and treatment of claims and  
 7 interests under the Plan.

8 **1. Unclassified Claims.**

9 Certain types of Claims are not placed into voting Classes; instead they are  
 10 unclassified. They are not considered impaired and they do not vote on the Plan because they are  
 11 automatically entitled to specific treatment provided for them in the Code. As such, the Debtor has  
 12 not placed the following Claims in a Class. The treatment of these Claims is provided below.

13 **a. Administrative Claims.**

14 **i. Treatment.**

15 Administrative claims are generally comprised of the actual and necessary costs and  
 16 expenses of preserving the Estate and operating the business of the Debtor after the Petition Date.  
 17 The Bankruptcy Code requires that allowed administrative expenses be paid on the effective date  
 18 unless the party holding the administrative expense agrees otherwise.

19 Unless otherwise agreed to by the parties, each holder of an Allowed Administrative  
 20 Claim shall receive Cash equal to the unpaid portion of such Allowed Administrative Claim on the  
 21 later of (x) the Effective Date, (y) the date a Final Order of the Bankruptcy Court is Entered allowing  
 22 the Administrative Claim, and (z) a date agreed on by the Debtor and the holder of the Allowed  
 23 Administrative Claim.

24 The Debtor is presently aware of two types of Administrative Claims. The first type  
 25 consists of debt incurred by the Debtor in the ordinary course of its business (other than tax claims)  
 26 since the Petition Date, including trade debt and operating expenses. Holders of these types of  
 27 Administrative Claims will not be required to File any requests for payment of such claims. Such  
 28 Administrative Claims shall be assumed and paid by the Revested Debtor pursuant to the terms and

1 conditions of a particular transaction giving rise to such Administrative Claim, without any further  
 2 action by the holders of such claim.

3 The second type of Administrative Claim consists of claims for fees and expenses as  
 4 allowed by Order of the Bankruptcy Court for professionals employed by the Debtor. All  
 5 compensation awarded to professionals under the Bankruptcy Code must be approved by the  
 6 Bankruptcy Court, and professionals must file fee applications that are considered by the Court. The  
 7 Debtor anticipates paying the balance of all awarded fees and costs promptly after any such award.

8 Since the Petition Date, the Debtor has made administrative expense payments to  
 9 professionals and other entities pursuant to various Court orders, and as stated above, after the  
 10 Effective Date, professionals will file final fee applications that seek approval of such payments of  
 11 administrative claims. The following chart lists the estimated unpaid amounts for the Debtor's  
 12 Administrative Claims and their treatment under the Plan, as of the date of the filing of this  
 13 Disclosure Statement. Since this number will increase prior to the hearing on the Disclosure  
 14 Statement, the Debtor will provide amended amounts prior to the hearing to consider the adequacy  
 15 of the Disclosure Statement.

<b>Name</b>	<b>Amount Owed</b>	<b>Treatment</b>
Stutman, Treister & Glatt Professional Corporation, reorganization counsel to Debtor	\$177,376.12	Paid in full on later of Effective Date or entry of order allowing fees
Silver Freedman & Taff LLP ("Silver") special regulatory counsel for the Debtor	\$3,386.25	Paid in full on later of Effective Date or entry of order allowing fees
Ernst & Young, LLP, tax services provider to the Debtor	\$12,444.30	Paid in full on later of Effective Date or entry of order allowing fees
Akin Gump Strauss Hauer & Feld LLP, counsel to the Committee	To be provided	Paid in full on later of Effective Date or entry of order allowing fees
FTI Consulting, Inc., financial advisor to the Committee	To be provided	Paid in full on later of Effective Date or entry of order allowing fees

## ii. Deadlines.

All applications, including final applications, for compensation of Professionals for services rendered and for reimbursement of expenses incurred on or before the Effective Date, and any other request for compensation by any Person or entity for making a substantial contribution in the Case, and all other requests for payment of an Administrative Claim incurred before the Effective Date under sections 507(a)(1) or 507(b) of the Code (except only for Claims under 28 U.S.C. section 1930) shall be filed no later than sixty (60) days after the Confirmation Date.

As to other administrative expenses that do not require Bankruptcy Court approval to become Allowed Claims, Creditors shall submit such Claims to the Debtor no later than sixty (60) days after the Confirmation Date or by such other bar date as the Bankruptcy Court may set. Holders of claims for the provision of goods and services postpetition to the Debtor need not file proofs of claim for administrative expenses.

Any such Claim not filed or submitted as explained above within these deadlines shall be forever barred, and any Creditor who is required to file a request for payment of such Claim and who does not file such request by the applicable bar date shall be forever barred from asserting such Claim against the Estate or its property.

The indenture trustee for the trust preferred securities that form the basis for the Trust Claims has provided and will continue to provide necessary services postpetition to the holders of the Trust Claims. All reasonable fees and expenses of the indenture trustee (including the fees and expenses of professionals employed by the indenture trustee) that are incurred in connection with the Case shall be deemed to be allowed administrative expenses, and any such fees and expenses due and payable and not paid as of the Effective Date shall be paid on the Effective Date; provided however that to the extent such fees and expenses are due and payable after the Effective Date, such fees and expenses shall be paid no later than ten (10) days after the applicable invoice date. The indenture trustee and its professionals shall not be required to file any application with or obtain approval of the Bankruptcy Court in order to receive payment of the fees and expenses. The indenture trustee shall be entitled to reasonable fees and expenses incurred in the implementation of

the Plan, including with any such fees and expenses incurred in connection with distributions made under the Plan.

**b. Priority Tax Claims.**

Priority Tax Claims are comprised of claims of federal, state and local governmental units for taxes, interest and penalties for certain periods specified in section 507(a) of the Bankruptcy Code. The California Franchise Tax Board ("FTB") has filed a priority claim in the amount of approximately \$4.25 million. While the Debtor has not completely analyzed the FTB's claim, the Debtor believes that the claim is invalid. The Debtor is unaware of any material Priority Tax Claims.

Unless otherwise agreed to by the parties, each holder of an Allowed Tax Claim shall receive Cash equal to the amount of the Allowed Tax Claim on the later of (x) the Effective Date, and (y) the date an Order of the Bankruptcy Court is Entered allowing the Tax Claim. Holders of Tax Claims shall not be entitled to receive any payment on account of interest that accrued after the Petition Date on, or penalties with respect to or arising in connection with, such Tax Claims, except as specifically allowed by the Bankruptcy Court.

## 2. Classification and Treatment of Claims.

**a. Classes Of Claims And Interests.**

The following is a designation of the classes of claims and interests under the Plan. A claim or interest is classified in a particular class only to the extent that the claim or interest qualifies within the description of that class and is classified in a different class to the extent that any remainder of the claim or interest qualifies within the description of such different class. A claim or interest is in a particular class only to the extent that the claim or interest is an Allowed Claim or Allowed Interest in that class and has not been paid, released, or otherwise satisfied before the Effective Date.

**i. Class 1 (Secured Claims)**

Class 1 consists of all Secured Claims. Unless otherwise agreed to by the parties, each holder of an Allowed Secured Claim shall receive on the later of (x) the Effective Date, and (y) the date an Order of the Bankruptcy Court is Entered allowing the Secured Claim, on account of

1 and in full satisfaction of its Allowed Secured Claim, either of the following treatments at the sole  
 2 election of the Debtor: (i) Cash equal to the amount of the Allowed Secured Claim or (ii) possession  
 3 of the property in which the holder of the Allowed Secured Claim has a perfected, unavoidable and  
 4 enforceable lien, security interest or other charge and relief from the automatic stay provided by  
 5 section 362 of the Bankruptcy Code to foreclose, collect upon or setoff the property in accordance  
 6 with applicable non-bankruptcy law. However, at any time after the Confirmation Date, the Debtor  
 7 can elect to give to the holder of an Allowed Secured Claim the treatment provided in subparagraph  
 8 (ii) above.

9                   Class 1 is unimpaired under the Plan and the holders of Class 1 Allowed Claims are  
 10 deemed to accept the Plan. The Debtor does not believe that there are any Secured Claims in this  
 11 Case.

12                   **ii. Class 2 (Priority Claims)**

13                   Class 2 consists of all Priority Claims. Unless otherwise agreed to by the parties,  
 14 each holder of an Allowed Priority Claim shall receive Cash equal to the amount of the Allowed  
 15 Priority Claim on the later of (x) the Effective Date, and (y) the date an Order of the Bankruptcy  
 16 Court is Entered allowing the Priority Claim.

17                   Class 2 is not impaired under the Plan and holders of Class 2 Allowed Claims are  
 18 deemed to accept the Plan. As stated above, the FDIC has alleged that it possesses a \$48.2 million  
 19 priority claim against the Debtor. The Debtor has filed an objection to the FDIC Claim, and a  
 20 hearing to consider the FDIC Claim has been set for November 18, 2010. If the FDIC Claim is  
 21 allowed as a priority claim, the Debtor will be unable to confirm the Plan absent FDIC consent. In  
 22 addition, the Debtor believes that there may be nominal employee related claims entitled to priority.

23                   **iii. Class 3 (General Unsecured Claims)**

24                   Class 3 consists of all Unsecured Claims against the Debtor that are not included in  
 25 any other Class in the Plan or otherwise provided for in the Plan. Each holder of an Allowed  
 26 Unsecured Claim shall receive, on account of and in full satisfaction of its Allowed Unsecured  
 27 Claim, its pro-rata share of the Net Estate Proceeds. Distributions to holders of Class 3 Claims shall  
 28

1 be governed by Art. V., § E of the Plan. Class 3 is impaired under the Plan and holders of Class 3  
 2 Allowed Claims are entitled to vote to accept or reject the Plan.

3 The Debtor estimates that Holders of Allowed Class 3 Claims will receive between  
 4 10% to 40% on account of their claims against the Debtor. The reason for this range is that, at the  
 5 time of the filing of this Disclosure Statement, the FDIC Claim had not been liquidated. As  
 6 discussed above, the FDIC Claim can be broken down into three categories: (i) the Capital  
 7 Maintenance Claims in the amount of approximately \$48.2 million (asserted to be a priority claim by  
 8 the FDIC), (ii) assertion of an entitlement to the Debtor's Tax Refunds in the amount of  
 9 approximately \$29 million, and (iii) a general unsecured claim in the amount of at least \$11.5  
 10 million.

11 As stated above, if the FDIC's Capital Maintenance Claim is allowed, the Debtor's  
 12 case will likely be converted to chapter 7. The following table illustrates the recovery to Holders of  
 13 Allowed Class 3 Claims in other scenarios where the Debtor's objection to the Capital Maintenance  
 14 Claim is sustained:

15 16 <b>Outcome of Actions</b>	17 <b>Total Amount of Property Available for Distribution to Class 3 Creditors</b>	18 <b>Total Amount of Allowed Class 3 Claims</b>	19 <b>Recovery to Holders</b>
20 21 Debtor prevails in Tax Refund Action, and remainder of FDIC Claim is disallowed	22 23 Approximately \$40 million	24 25 Approximately \$98 million	26 27 Approximately 40%
28 29 Debtor prevails in Tax Refund Action, but FDIC's tax refunds and general unsecured claims are allowed	30 31 Approximately \$40 million	32 33 Approximately \$138 million	34 35 Approximately 29%
36 37 FDIC prevails in Tax Refund Action and FDIC's general unsecured claims are disallowed	38 39 Approximately \$11 million	40 41 Approximately \$98 million	42 43 Approximately 11%
44 45 FDIC prevails in Tax Refund Action and FDIC's general unsecured claims are allowed	46 47 Approximately \$11 million	48 49 Approximately \$109 million	50 51 Approximately 10%

**iv. Class 4 (Convenience Claims)**

Class 4 consists of Convenience Claims. Each holder of an Allowed Convenience Claim shall receive, on account of and in full satisfaction of its Allowed Convenience Claim and any Unsecured Claim reduced to a Convenience Claim, Cash equal to 100% of the amount of the Allowed Convenience Claim on the later of (x) the Effective Date, and (y) the date an Order of the Bankruptcy Court is Entered allowing the Convenience Claim. Class 4 is unimpaired under the Plan and the holders of Class 4 Allowed Claims are deemed to accept the Plan.

Without taking into consideration the claims of creditors that elect to reduce their claims to under \$10,000, the Debtor believes that the total amount of Class 4 Claims is approximately \$50,000.

v. **Class 5 (Holders of Interests In the Debtor)**

Class 5 is comprised of holders of Interests in the Debtor. Holders of Class 5 Allowed Interests shall neither receive nor retain any property under the Plan and all Interests of the Debtor shall be cancelled as of the Effective Date. Class 5 is impaired under the Plan and the holders of Allowed Class 5 Interests are deemed to reject the Plan.

## **B. Executory Contracts And Unexpired Leases.**

Subject to certain limitations, the Debtor has the right, subject to Bankruptcy Court approval, to assume or reject any executory contract or unexpired lease entered into prior to the Petition Date. Generally, damages resulting to the other party from a rejection are treated as an Unsecured Claim arising prior to the Petition Date and included in the appropriate class to the extent such claim is allowed by the Bankruptcy Court.

All executory contracts or unexpired leases of the Debtor, except (a) those previously assumed and assigned by Bankruptcy Court order, or (b) those which are assumed under the Plan, are rejected. The Debtor shall file a schedule of executory contracts to be assumed under the Plan no later than 20 days prior to the Confirmation Hearing.

Any Claims arising from the rejection of an executory contract or unexpired lease as a result of Confirmation of the Plan shall be filed with the Bankruptcy Court and served on the Revested Debtor, and its counsel, no later than thirty (30) days after the Confirmation Date.

1                   The Debtor reserves the right at any time before Confirmation to amend the schedule  
2 of executory contracts to be assumed. The Debtor shall provide notice of any amendment to the  
3 parties to the affected executory contract or unexpired lease and the Office of the United States  
4 Trustee.

5                   **C. Implementation Of The Plan.**

6                   **1. Distributions and Actions on the Effective Date.**

7                   On the Effective Date, or as soon thereafter as practicable, and in accordance with the  
8 terms of the Plan:

9                   1.       The Debtor shall make the required payments, if any, to the holders of Allowed  
10 Administrative Claims, Allowed Tax Claims, Allowed Class 1 Claims, Allowed Class 2 Claims and  
11 Allowed Class 4 Claims.

12                   2.       The Revested Debtor shall administer all remaining property and assets, other  
13 than the Recovery Rights Against Insiders which shall be administered by the Post-Effective Date  
14 Committee, and distribute the proceeds thereof and the proceeds received from any Recovery Rights  
15 Against Insiders in accordance with the terms of the Plan.

16                   3.       The Revested Debtor shall prosecute and administer the Recovery Rights but  
17 not the Recovery Rights Against Insiders which shall be the sole province of the Post-Effective Date  
18 Committee.

19                   4.       On the Effective Date, the Post Effective Date Committee shall have standing to  
20 and shall prosecute and administer the Recovery Rights Against Insiders as the Post Effective Date  
21 Committee deems appropriate, in its sole discretion.

22                   **2. Liquidation of Remaining Assets.**

23                   On and after the Effective Date, the Revested Debtor shall liquidate and administer all  
24 the assets and other property of the Estate, including the Recovery Rights, but excluding the Recovery  
25 Rights Against Insiders, which shall be the sole province of the Post Effective Date Committee, in  
26 accordance with the terms of the Plan. All the assets and other property of the Estate, including the  
27 Recovery Rights, but excluding the Recovery Rights Against Insiders (which shall be the sole province  
28 of the Post Effective Date Committee) shall be reduced to Cash or abandoned if determined by the

1 Revested Debtor to have no reasonably expected material value in excess of the expenses required to  
 2 liquidate such assets, considering, among other things, the risk, delay and uncertainty attendant with  
 3 such liquidation. The Net Estate Proceeds will be distributed to holders of Class 3 Allowed Claims in  
 4 accordance with the terms of the Plan.

5 **3. Participation Of Post-Effective Date Board Of Directors.**

6 On the Effective Date, the Post-Effective Date Board of Directors shall be established  
 7 with four (4) members, two (2) of whom shall be appointed by the Committee and the others by the  
 8 Revested Debtor. All final actions to be taken by the Debtor or the Revested Debtor with respect to the  
 9 assets of the Estate, including compromising, settling or abandoning any actions related to the  
 10 Recovery Rights (other than Recovery Rights Against Insiders) or claims objections, shall be done  
 11 after consultation with and the consent of the Post-Effective Date Board of Directors.

12 The Revested Debtor will provide the Post-Effective Date Board of Directors with  
 13 quarterly reports concerning the status of funds held by the Estate, the status of Claims and objections  
 14 to Claims, ongoing activities with respect to Recovery Rights and the date of any proposed  
 15 distributions. In addition, the Revested Debtor shall give the Post-Effective Date Board of Directors at  
 16 least thirty (30) days written notification of the date of the Final Distribution (as such term is defined  
 17 below).

18 Members of the Post-Effective Date Board of Directors may resign at any time upon  
 19 written notice to the other members of the Post-Effective Date Board of Directors. Any vacancy on  
 20 the Post-Effective Date Board of Directors will be filled by the Committee Designee if the member  
 21 appointed by the Committee resigns or by the Revested Debtor if one of its two members resign. The  
 22 failure to fill a vacancy however shall have no effect on the Post-Effective Date Board of Directors'  
 23 authority under the Plan.

24 **4. Distributions To Class 3.**

25 As soon as is practicable after the Effective Date, the Revested Debtor shall make a  
 26 Cash interim distribution (the "Interim Distribution") from the Estate pursuant to the terms of the Plan  
 27 to the holders of Allowed Claims in Class 3. However, if in the opinion of the Revested Debtor and  
 28 the Post-Effective Date Board of Directors such distribution would be de minimis or impracticable in

1 comparison to the time and costs involved in making an Interim Distribution, then the Interim  
 2 Distribution may be postponed until such time as there are sufficient funds in the Estate.

3                   The Interim Distribution shall consist of the funds on hand in the Estate at the time such  
 4 Interim Distribution is made, less a reserve (the "Reserve") estimated by the Post-Effective Date Board  
 5 of Directors in good faith for current and prospective fees, costs and expenses of Post-Effective Date  
 6 activities (including those of the Post-Effective Date Committee), for unpaid Administrative Claims  
 7 and administrative expenses and for Disputed Claims. The Interim Distribution shall be made pro rata  
 8 to all holders of Class 3 Allowed Claims.

9                   Except for the Final Distribution, subsequent distributions shall be made in the  
 10 discretion of the Post-Effective Date Board of Directors, based upon funds available for distribution  
 11 and the time and costs involved in making any such subsequent distribution. At such time as all  
 12 actions relating to the Recovery Rights and Recovery Rights Against Insiders have been completed,  
 13 settled or abandoned and all other assets liquidated to Cash or abandoned, the Revested Debtor shall  
 14 make a final distribution (the "Final Distribution") of all funds on hand in the Estate, after payment of  
 15 any remaining costs, expenses and fees of the Estate, pro rata to holders of Class 3 Allowed Claims  
 16 pursuant to the terms of the Plan.

17                   **5. Form Of Distribution/Undeliverable Distributions.**

18                   All distributions under the Plan shall be made by check mailed by first-class mail  
 19 through the United States mail, with postage fully prepaid, or by wire transfer. Distributions are  
 20 deemed made under the Plan on the date of the mailing of the checks or the wiring of funds.  
 21 Distributions returned by the Post Office or undelivered due to lack of a current address or for any  
 22 other reason shall be retained by the Revested Debtor for a period of six (6) months following their  
 23 return unless claimed by the claimant within that time period. During the six (6) month period  
 24 following any distribution, a claimant may retrieve any returned distribution upon presentation to the  
 25 Revested Debtor of satisfactory proof that such holder is entitled to such distribution.

26                   After the expiration of six (6) months following the date a distribution is made, holders  
 27 of Allowed Claims entitled to returned distributions shall no longer be entitled thereto, and such  
 28 Allowed Claims shall be deemed disallowed without further Court order. Thereafter, any unclaimed

1 distributions shall be held in the Estate for distribution to holders of Allowed Claims at the time of the  
 2 Final Distribution.

3 No provision contained in Section E of the Plan shall be interpreted to require the  
 4 Debtor, the Revested Debtor, the Post-Effective Date Board of Directors or the Post-Effective Date  
 5 Committee to attempt to locate any such person. The address shown on the Debtor's schedules for a  
 6 creditor, if such creditor has not filed a proof of claim, or on such creditor's proof of claim filed with  
 7 the Court shall be deemed to be a creditor's address for purposes of distributions hereunder unless at  
 8 least seven (7) days prior to any distribution a written change of address is delivered to the Revested  
 9 Debtor or counsel for the Revested Debtor.

10 **6. Corporate Matters Regarding The Debtor.**

11 **a. Cancellation Of Equity Interests**

12 On the Effective Date, all Interests shall be cancelled and be of no further force or  
 13 effect, without any further action being required to effect such cancellation. Concurrently with the  
 14 cancellation of the Interests as required in this section, the Debtor will issue one share of new common  
 15 stock. This new share of stock will be held by the Committee Designee for the benefit of all entities  
 16 holding Allowed Unsecured Claims. Once the Final Distribution date has occurred and the Court has  
 17 Entered a Final Order closing this Case, this new share of stock will automatically be cancelled  
 18 without any further action. The members of the Post-Effective Date Board of Directors shall not be  
 19 replaced by the holder of the share of stock until all assets of the Revested Debtor and the Estate have  
 20 been liquidated, including the Recovery Rights, but excluding the Recovery Rights Against Insiders.

21 **b. Dissolution Of Debtor.**

22 On the date that both the Final Distribution has occurred and the Court has Entered a  
 23 Final Order closing this Case, the Debtor/Revested Debtor shall be dissolved as a Delaware  
 24 corporation, without any further action being required to effect such dissolution. The Debtor/Revested  
 25 Debtor is authorized to file a certificate of dissolution with the Delaware Secretary of State. As of the  
 26 Effective Date, the Debtor, as the Revested Debtor, will continue to be governed as a Delaware  
 27 corporation in accordance with the Plan.

1                   **7. Maintenance of Bank Accounts**

2                   All Cash held by the Estate on the Effective Date plus the proceeds received by the  
3 Estate from the liquidation of the assets of the Estate after the Effective Date shall be held in one or  
4 more separate bank or other depository accounts or investment accounts, in accordance with section  
5 345 of the Bankruptcy Code. The Revested Debtor shall be entitled to use the Debtor's bank  
6 accounts that are in existence as of the Effective Date and shall be authorized to open such other  
7 bank or depository accounts as may be necessary or appropriate in its discretion to enable it to carry  
8 out the provisions of the Plan. The Revested Debtor may, from time to time, invest Cash held by the  
9 Estate on the Effective Date plus the proceeds received by the Estate from the liquidation of the  
10 assets of the Estate in certificates of deposit, treasury bills, money market accounts or other short  
11 term investments, consistent with section 345 of the Bankruptcy Code. All interest earned thereon  
12 shall be retained for distribution to the holders of Allowed Claims in Class 3 pursuant to the Plan.

13                   **8. Prosecution of Recovery Rights and Recovery Rights Against Insiders.**

14                   The Revested Debtor shall have full power and authority, to be exercised subject to  
15 consultation with, and the prior approval of, the Post-Effective Date Board of Directors to  
16 commence, if not already commenced, prosecute, settle and abandon any action related to the  
17 Recovery Rights but not as to Recovery Rights Against Insiders, subject to consultation rights of the  
18 Post-Effective Date Committee. After the Effective Date, all actions relating to the Recovery Rights  
19 shall be filed and prosecuted in the name of the Revested Debtor. Any counsel retained to prosecute  
20 Recovery Rights prior to the date the Confirmation Order becomes a Final Order shall not be  
21 disqualified from being retained by the Revested Debtor on the same terms and conditions of its  
22 prior employment solely by reason of that prior employment.

23                   The Post-Effective Date Committee shall have standing and full power and authority,  
24 either in its name, the Revested Debtor's name or both, in its sole discretion to commence, if not  
25 already commenced, prosecute, and abandon any action related to Recovery Rights Against Insiders.  
26 All settlements of Recovery Rights Against Insiders shall be approved by the Bankruptcy Court after  
27 notice and a hearing. The Post-Effective Date Committee shall be authorized to retain counsel to  
28 prosecute these actions. Any counsel retained to prosecute Recovery Rights Against Insiders prior

1 to the date the Confirmation Order becomes a Final Order shall not be disqualified from being  
 2 retained by the Post-Effective Date Committee on the same terms and conditions of its prior  
 3 employment solely by reason of that prior employment.

4 **9. Effect of Confirmation**

5 On the Confirmation Date, the provisions of the Plan shall be binding on the Debtor,  
 6 the Revested Debtor, the Estate, all holders of Claims against or Interests in the Debtor, and all other  
 7 parties in interest whether or not such holders are impaired and whether or not such holders have  
 8 accepted the Plan.

9 **10. Nondischarge And Injunction.**

10 **a. Nondischarge Of Debtor.**

11 Pursuant to section 1141(d)(3) of the Bankruptcy Code, the Confirmation Order shall  
 12 not discharge Claims against the Debtor. However, no creditor of the Debtor or holder of an Interest  
 13 may receive any payment from or seek recourse against any assets that are to be distributed under  
 14 the Plan, except for those assets required to be distributed to that Creditor as expressly provided for  
 15 in the Plan. As of the Effective Date, all entities are precluded from asserting against the Debtor, the  
 16 Revested Debtor, or any property that is to be distributed under the Plan any Claims, rights, causes  
 17 of action, liabilities or Interests based upon or related to any act or omission, transaction or other  
 18 activity of any kind or nature that occurred prior to the Effective Date, other than as expressly  
 19 provided in the Plan or the Confirmation Order, regardless of the filing, lack of filing, allowance or  
 20 disallowance of such a Claim or Interest and regardless of whether such an entity has voted or not  
 21 voted to accept or reject the Plan.

22 **b. Injunction.**

23 Except as otherwise provided in the Plan or the Confirmation Order, on and after the  
 24 Effective Date all entities that have held, currently hold or may hold a debt, claim, other liability or  
 25 interest against or in the Debtor that would be discharged upon confirmation of the Plan and the  
 26 Effective Date but for the provisions of section 1141(d)(3) of the Bankruptcy Code and Section I.1. of  
 27 the Plan are permanently enjoined from taking any of the following actions on account of such debt,  
 28 claim, liability, interest or right: (a) commencing or continuing in any manner any action or other

1 proceeding on account of such debt, claim, liability, interest or right against the Debtor, the Revested  
 2 Debtor, or property that is to be distributed under the Plan, other than to enforce any right to a  
 3 distribution with respect to such property under the Plan; (b) enforcing, attaching, collecting or  
 4 recovering in any manner any judgment, award, decree, or order against the Debtor, the Revested  
 5 Debtor, or any property to be distributed to creditors under the Plan, other than as permitted under  
 6 subparagraph (a) above; and (c) creating, perfecting or enforcing any lien or encumbrance against any  
 7 property to be distributed under the Plan, other than as permitted by the Plan.

8                   On and after the Effective Date, each holder of an Interest in the Debtor is permanently  
 9 enjoined from taking or participating in any action that would interfere or otherwise hinder the Debtor  
 10 from implementing the Plan or the Confirmation Order.

11                   **11.       Retention Of Jurisdiction.**

12                   Following confirmation of the Plan, the Bankruptcy Court shall retain such  
 13 jurisdiction as is legally permissible after confirmation, including, without limitation, for the  
 14 following purposes:

15                   1.        To determine the allowability, amount, classification, or priority of Claims  
 16 upon objection by the Debtor, the Revested Debtor or the Post-Effective Date Board of Directors;

17                   2.        To construe and to take any action to execute and enforce the Plan, the  
 18 Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be  
 19 necessary for the implementation, execution, performance, and consummation of the Plan and all  
 20 matters referred to herein, and to determine all matters that may be pending before the Bankruptcy  
 21 Court in the Case on or before the Effective Date;

22                   3.        To rule on any and all applications for allowance of compensation and  
 23 expense reimbursement of professionals for periods on or before the Effective Date;

24                   4.        To rule on any request for payment of any Administrative Claim or  
 25 administrative expense;

26                   5.        To resolve any dispute regarding the implementation, execution, performance,  
 27 consummation, or interpretation of the Plan;

1           6. To resolve all applications, adversary proceedings, contested matters, and  
2 other litigated matters instituted on or before the Effective Date;

3           7. To hear and determine any actions related to the Recovery Rights, including  
4 Recovery Rights Against Insiders, whether or not such actions are pending on the Effective Date;

5           8. To determine such other matters and to perform other functions as may be  
6 provided in the Confirmation Order;

7           9. To modify the Plan under section 1127 of the Bankruptcy Code, to remedy  
8 any apparent nonmaterial defect or omission in the Plan, or to reconcile any nonmaterial  
9 inconsistency in the Plan so as to carry out its intent and purposes, subject to consultation with the  
10 Committee and the provision of notice and opportunity for a hearing regarding any such  
11 modification;

12           10. To issue injunctions or take such other actions or make such other orders as  
13 may be necessary or appropriate to restrain interference with the Plan or its execution or  
14 implementation by any entity;

15           11. To issue such orders in aid of execution of the Plan and the Confirmation  
16 Order, notwithstanding any otherwise applicable nonbankruptcy law, with respect to any entity, to  
17 the full extent authorized by the Bankruptcy Code;

18           12. To designate, if necessary, pursuant to Bankruptcy Rule 9001(5), an  
19 individual to act on behalf of the Debtor or the Revested Debtor after the Effective Date; and

20           13. To enter a final decree closing the Case.

21           **12. Modification of the Plan.**

22           The Debtor reserves the right, in accordance with the Code, to amend or modify the  
23 Plan prior to the Entry of the Confirmation Order, subject to consultation with the Committee and  
24 the provision of notice and opportunity for a hearing regarding any such modification. After the  
25 Entry of the Confirmation Order, the Revested Debtor may, upon order of the Court, amend or  
26 modify the Plan in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect  
27 or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry  
28

1 out the purpose and intent of the Plan, subject to consultation with the Committee and the provision  
 2 of notice and opportunity for a hearing regarding any such modification.

3 As noted in the Introduction, Section I above, this Plan contemplated the liquidation  
 4 of all of the Debtor's assets and the termination of the Debtor's business operations. However, the  
 5 Debtor has filed with the bankruptcy court an application to employ KPMG Corporate Finance, LLC  
 6 ("KPMG") to provide investment banking services to the Debtor and, in particular, to attempt to  
 7 develop, with the Debtor, a business restructuring plan which, in all likelihood, would involve the  
 8 participation of a third-party investor. As of this date, the Court has not yet approved the  
 9 employment of KPMG and, accordingly, KPMG has not begun rendering services. Nevertheless,  
 10 the Debtor is reserving its right to amend this Plan to provide an alternative to liquidation, in the  
 11 event that, through the services to be provided by KPMG, or otherwise, the Debtor is in a position to  
 12 propose a feasible Plan that would involve continued and future business operations.

13 **13. Objections to Claims.**

14 The Revested Debtor shall be responsible for, subject to consultation with, and the  
 15 prior approval of, the Post-Effective Date Board of Directors for commencing, prosecuting or  
 16 settling objections to Claims, including Administrative Claims and Administrative Expenses, not  
 17 concluded as of the Effective Date. All objections to Claims shall be filed with the Bankruptcy  
 18 Court and served upon the holders of such Claims by the later of (a) 120 days after the Effective  
 19 Date, or (b) 120 days after the particular proof of claim has been filed, except as extended by an  
 20 agreement between the claimant and the Revested Debtor, or by order of the Bankruptcy Court upon  
 21 a motion filed by the Revested Debtor, with notice of such motion to be served upon the Office of  
 22 the United States Trustee, the Post-Effective Date Board of Directors, Post-Effective Date  
 23 Committee and those holders of Claims to whom the objection is made. If an objection has not been  
 24 filed to a proof of claim that relates to a Claim by the objection bar dates established in this Section,  
 25 the Claim to which the proof of claim relates shall be treated as an Allowed Claim for purposes of  
 26 distribution under the Plan. The Post-Effective Date Committee shall have the authority to object to  
 27 any Claims or actions asserted by any Insider or which is asserted against both the Debtor and any  
 28 affiliate of the Debtor.

1                   **14. Limitation of Liability.**

2                   Neither the Debtor/Revested Debtor, or any of its respective employees, officers,  
 3 directors, partners, agents, representatives, or any professional persons employed by any of them, nor  
 4 the Committee, the Post-Effective Date Board of Directors, the Post Effective Date Committee or any  
 5 of their respective members, agents, representatives, attorneys, accountants, auditors or other advisors,  
 6 shall have or shall incur any liability to any Person or entity for any act taken or omission made in  
 7 good faith in connection with or related to the post-petition administration of the Debtor's case,  
 8 including, but not limited to, the formulation, implementation, confirmation, or consummation of the  
 9 Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document  
 10 created in connection with the Plan or regarding any distribution made under the Plan.

11                   Pursuant to section 1125(e) of the Bankruptcy Code, the Debtor, the Committee and its  
 12 present and former members, officers, directors, employees, agents, advisors, representatives,  
 13 successors or assigns, and any Professionals (acting in such capacity) employed by any of the  
 14 foregoing entities will neither have nor incur any liability for their role in soliciting acceptances or  
 15 rejections of the Plan.

16                   **15. Indemnification.**

17                   After the Effective Date, the Estate shall indemnify the Revested Debtor and the  
 18 members of the Post-Effective Date Board of Directors and Post Effective Date Committee against  
 19 any and all Claims, causes of action, losses, costs, damages, attorneys' fees and other expenses, each  
 20 may sustain in carrying out their respective duties and obligations hereunder except those which  
 21 arise as a result of gross negligence, fraud, breach of fiduciary duty or willful misconduct.

22                   **V.**

23                   **CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

24                   **A. Introduction.**

25                   The implementation of the Plan may have federal, state and local tax consequences to  
 26 Debtor and Debtor's creditors and stockholders. No tax opinion has been sought or will be obtained  
 27 with respect to any tax consequences of the Plan. This Disclosure Statement does not constitute and  
 28

1 is not intended to constitute either a tax opinion or tax advice to any person, and the summary  
 2 contained herein is provided for informational purposes only.

3                   The discussion below summarizes only certain of the federal income tax  
 4 consequences associated with the Plan's implementation. This discussion does not attempt to  
 5 comment on all aspects of the federal income tax consequences associated with the Plan, nor does it  
 6 attempt to consider various facts or limitations applicable to any particular creditor which may  
 7 modify or alter the consequences described herein. A creditor may find that the tax consequences of  
 8 the Plan to such creditor differ materially from the tax consequences discussed below because of  
 9 such creditor's facts and circumstances. This discussion does not address state, local or foreign tax  
 10 consequences or the consequences of any federal tax other than the federal income tax.

11                   The following discussion is based upon the provisions of the Internal Revenue Code  
 12 of 1986, as amended (the "Internal Revenue Code"), the regulations promulgated thereunder,  
 13 existing judicial decisions and administrative rulings. In light of the rapidly-changing nature of tax  
 14 law, no assurance can be given that legislative, judicial or administrative changes will not be  
 15 forthcoming that would affect the accuracy of the discussion below. Any such changes could be  
 16 material and could be retroactive with respect to the transactions entered into or completed prior to  
 17 the enactment or promulgation thereof. The tax consequences of certain aspects of the Plan are  
 18 uncertain due to the lack of applicable legal authority and may be subject to judicial or  
 19 administrative interpretations that differ from the discussion below.

20                   **CREDITORS AND STOCKHOLDERS ARE ADVISED TO CONSULT WITH  
 21 THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM  
 22 AND TO DEBTOR OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN,  
 23 INCLUDING FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES.**

24                   **B.       Federal Income Tax Consequences to Debtor.**

25                   The Debtor will recognize gain or loss on the disposition of each asset, but will not  
 26 likely be required to pay any regular federal corporate income taxes, because any gain from any such  
 27 sales will be sheltered by the Debtor's existing regular tax net operating losses and net operating loss  
 28 carryovers.

If the Debtor has a regular income tax loss in all tax years which include or follow the Effective Date, it is likely the Debtor will not incur any federal alternative minimum tax liability. However, in the event the Debtor has taxable income (before applying net operating loss carryovers) in a tax year which includes or follows the Effective Date and must use its net operating loss carryovers to shelter against regular federal corporate income tax liability, it is likely that the Debtor will incur a federal alternative minimum tax liability because alternative tax net operating loss carryovers cannot fully shelter against federal alternative minimum tax. Under Internal Revenue Code section 56(d), alternative tax net operating loss carryovers are deductible only to the extent of 90 percent of alternative minimum taxable income (computed without regard to such deduction). At the conclusion of the liquidation, the Debtor will be dissolved and should not owe any future taxes.

### **C. Federal Income Tax Consequences To Creditors**

The tax consequences of the Plan's implementation to a creditor will depend on whether the creditor reports income on the cash or accrual method, whether the creditor receives consideration in more than one tax year of the creditor, and whether all the consideration received by the creditor is deemed to be received by that creditor in an integrated transaction. Certain tax consequences upon the receipt of cash or other property allocable to interest are discussed below under "Receipt of Interest."

#### **1. Consequences to Holders of Class 3 Allowed Claims (General Unsecured Claims).**

##### **a. Recognition of Gain or Loss Generally.**

Pursuant to the Plan, on the Effective Date, each Holder of an Allowed Class 3 Claim will receive a right to receive payment from the Revested Debtor out of Net Estate Proceeds as provided for in the Plan. Except to the extent that the Holder of any such Allowed Class 3 Claim agrees to a different treatment, said Holder will receive on account of its Allowed Class 3 Claim, in full and complete satisfaction thereof, from Net Estate Proceeds, one or more pro rata distributions of Net Estate Proceeds based upon the amount of the respective Holder's Allowed Class 3 Claim. The change in the payment terms of the Allowed Class 3 Claims as originally held by the Holders

1 and the payment terms with respect to such Claims provided in the Plan likely constitutes a  
 2 "significant modification" of such Claims under Treasury Regulations section 1.1001-3(e). In  
 3 general, assuming a significant modification occurs, each holder of an Allowed Class 3 Claim will  
 4 recognize gain or loss in an amount equal to the difference between (i) the issue price (as determined  
 5 under the Treasury Regulations) of the payment stream that such Holder will receive from Net Estate  
 6 Proceeds in satisfaction of its Allowed Class 3 Claim (other than in respect of any Allowed Class 3  
 7 Claim for accrued but unpaid interest, and excluding any portion required to be treated as imputed  
 8 interest or original issue discount), and (ii) such Holder's adjusted tax basis in its Allowed Class 3  
 9 Claim (other than any Allowed Class 3 Claim for accrued but unpaid interest). Holders should  
 10 consult with their tax advisors to determine whether any gain recognized under the foregoing rules  
 11 may be reported on the installment method.

12                   **2.       Other Tax Considerations.**

13                   **a.       Market Discount.**

14                   If a creditor has a lower tax basis in a Debtor obligation than its face amount, the  
 15 difference may constitute market discount under section 1276 of the Internal Revenue Code.  
 16 (Certain Debtor obligations are excluded from the operation of this rule, such as obligations with a  
 17 fixed maturity date not exceeding one year from the date of issue, installment obligations to which  
 18 Internal Revenue Code section 453B applies and, in all likelihood, demand instruments).

19                   **b.       Withholding.**

20                   All distributions to Holders of Allowed Claims are subject to any applicable tax  
 21 withholding. This may require payments by certain creditors of the required withholding tax on any  
 22 non-cash consideration issued to them. In addition, creditors may be required to provide general tax  
 23 information to the Revested Debtor.

24                   **3.       Receipt Of Interest**

25                   Income attributable to accrued but unpaid interest will be treated as ordinary income,  
 26 regardless of whether the creditor's existing claims are capital assets in its hands.

1 A creditor who, under its accounting method, was not previously required to include  
2 in income accrued but unpaid interest attributable to existing claims, and who exchanges its interest  
3 claim for cash, or other property pursuant to the Plan, will be treated as receiving ordinary interest  
4 income to the extent of any consideration so received allocable to such interest, regardless of  
5 whether that creditor realizes an overall gain or loss as a result of the exchange of its existing claims.  
6 A creditor who had previously included in income accrued but unpaid interest attributable to its  
7 existing claims will recognize a loss to the extent such accrued but unpaid interest is not satisfied in  
8 full. For purposes of the above discussion, "accrued" interest means interest, which was accrued  
9 while the underlying claim was held by the creditor. The extent to which consideration distributable  
10 under the Plan is allocable to such interest is uncertain.

VI.

## **VOTING AND PLAN CONFIRMATION STANDARDS**

## A. Voting On The Plan.

14 After carefully reviewing the Plan and this Disclosure Statement, including the  
15 Exhibits hereto, each holder of a claim Class 3 Claim should mark its vote on the enclosed ballot  
16 ("Ballot") and timely return it in the envelope provided.

17 TO BE COUNTED, YOUR BALLOT MUST BE COMPLETELY FILLED IN,  
18 SIGNED AND TRANSMITTED IN THE MANNER SPECIFIED IN THE BALLOT SO  
19 THAT IT IS RECEIVED BY JOANNE STERN, STUTMAN, TREISTER & GLATT  
20 PROFESSIONAL CORPORATION, 1901 AVENUE OF THE STARS, SUITE 1200,  
21 LOS ANGELES, CALIFORNIA 90067 ON OR BEFORE THE VOTING DEADLINE OF  
22 AS SPECIFIED IN THE BALLOT.

## 1. Classes Entitled To Vote.

24                   Whether a holder of a claim is entitled to vote on the Plan depends on (a) the class in  
25 which the claim is classified and (b) whether that class is "impaired" under the Plan within the  
26 meaning of Bankruptcy Code section 1124. Article III of the Plan describes what claims or equity  
27 interests are classified in each class. Holders of Allowed Claims in Class 3 are entitled to vote on  
28 the Plan because that Class is impaired under the Plan within the meaning of Bankruptcy Code

1 section 1124. Classes 1 (Secured Claims), 2 (Priority Claims) and 4 (Convenience Claims) are  
 2 unimpaired and, therefore, do not vote. Finally, Holders of Allowed Equity Interests in Class 5 are  
 3 deemed to have rejected the Plan because their interests will receive no distribution under the Plan.

4 **a. What Is an Allowed Claim/Interest.**

5 As noted above, a creditor must first have an allowed claim to have the right to vote.  
 6 Generally, any proof of claim will be allowed, unless a party in interest brings a motion objecting to  
 7 the claim. When an objection to a claim is filed, the creditor holding the claim cannot vote unless  
 8 the Court, after notice and hearing, either overrules the objection or allows the claim for voting  
 9 purposes.

10 A creditor may have an allowed claim or interest even if a proof of claim or interest  
 11 was not timely filed, if (1) it is scheduled on the Debtor's schedules and such claim is not scheduled  
 12 as disputed, contingent, or unliquidated, and (2) no party in interest has objected to the claim.

13 **b. What Is an Impaired Claim.**

14 As noted above, an allowed claim only has the right to vote if it is in a class that is  
 15 impaired under the Plan. A class is impaired if the Plan alters the legal, equitable, or contractual  
 16 rights of the members of that class. For example, a class comprised of general unsecured claims is  
 17 impaired if the Plan fails to pay the members of that class 100% of what they are owed.

18 In this case, Class 3 is impaired and holders of claims in this Class are therefore  
 19 entitled to vote to accept or reject the Plan. Parties who dispute the Debtor's characterization of their  
 20 claim or interest as being impaired or unimpaired may file an objection to the Plan contending that  
 21 the Debtor has incorrectly characterized the Class.

22 **c. Who is Not Entitled to Vote.**

23 The following three types of claims are not entitled to vote: (1) claims that have been  
 24 disallowed; (2) claims entitled to priority pursuant to Code sections 507(a)(1), (a)(2), and (a)(8);  
 25 (3) claims in Classes 1, 2, and 4, which are deemed to accept the Plan; and (4) interests in Class 5,  
 26 which are deemed to have rejected the Plan. Claims entitled to priority pursuant to Code sections  
 27 507(a)(1), (a)(2), and (a)(7) are not entitled to vote because such claims are not placed in classes and  
 28 they are required to receive certain treatment specified by the Code. EVEN IF YOUR CLAIM IS

1 OF THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO  
2 THE CONFIRMATION OF THE PLAN.

3 **d. Votes Necessary to Confirm the Plan.**

4 Because only one impaired class of claims exists, the Court cannot confirm the Plan  
5 unless Class 3 has voted to accept the Plan.

6 **e. Votes Necessary for a Class to Accept the Plan.**

7 A class of claims is considered to have accepted the Plan when more than one-half  
8 (1/2) in number and at least two-thirds (2/3) in dollar amount of the claims which actually voted,  
9 voted in favor of the Plan.

10 **2. How To Vote.**

11 Procedures for voting are specified in the Disclosure Statement Order (Exhibit "B"  
12 hereto) and the Confirmation Hearing Notice distributed with the Disclosure Statement in your  
13 solicitation package. The deadline for voting on the Plan is \_\_\_\_\_, 2010. Your ballot must  
14 be received by \_\_\_\_\_, 2010 or it will not be counted.

15 **B. Confirmation Of The Plan.**

16 Any interested party desiring further information about the plan should contact  
17 Joanne Stern, Legal Assistant, at (310) 228-5600.

18 **1. Hearing On Confirmation Of The Plan.**

19 The Bankruptcy Court has set a hearing on \_\_\_\_\_, at \_\_\_\_\_.m., in the  
20 Courtroom of the Honorable Louise DeCarl Adler, United States Bankruptcy Judge, Courtroom 2,  
21 San Diego, California 92101, to determine whether the requirements for Confirmation of the Plan,  
22 including those set forth in section 1129 of the Bankruptcy Code, have been satisfied with respect to  
23 the Debtor. Your attention is directed to the Disclosure Statement Order (Exhibit "B" hereto) and  
24 the Confirmation Hearing Notice distributed with the Disclosure Statement in your solicitation  
25 package. Objections to Confirmation of the Plan must be served upon counsel to the Debtor by  
26 \_\_\_\_\_, 2010.

27 Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to  
28 hold a hearing on confirmation of the Plan after the ballots have been cast. The confirmation hearing

1 may be postponed from time to time by the Bankruptcy Court without further notice except for an  
 2 announcement of the postponement made at the confirmation hearing. Section 1128(b) of the  
 3 Bankruptcy Code provides that any party in interest may object to confirmation of the Plan. Objections  
 4 must be made in writing, specifying in detail the name and address of the person or entity objecting, the  
 5 grounds for the objection, and the nature and amount of the claim or equity interest held by the objector,  
 6 and otherwise complying with the requirements of the Bankruptcy Rules and Local Bankruptcy Rules.  
 7 Objections must be filed with the Clerk of the Bankruptcy Court, together with proof of service, and  
 8 served upon the parties so designated in the notice in the manner set forth therein, on or before the time  
 9 and date designated in the notice as being the last date for serving and filing objections to confirmation  
 10 of the Plan. **UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND**  
 11 **FILED IN ACCORDANCE WITH THE NOTICE, IT WILL NOT BE CONSIDERED BY THE**  
 12 **BANKRUPTCY COURT.**

13 At the confirmation hearing, the Bankruptcy Court will determine, among other things,  
 14 whether the following confirmation requirements specified in section 1129 of the Bankruptcy Code  
 15 have been satisfied:

- 16 1. The Plan complies with the applicable provisions of the Bankruptcy Code.
- 17 2. The Debtor has complied with the applicable provisions of the Bankruptcy  
 Code.
- 19 3. The Plan has been proposed in good faith and not by any means proscribed by  
 law.
- 21 4. Any payment made or promised by the Debtor for services or for costs and  
 expenses in, or in connection with, the Case, or in connection with the Plan and incident to the Case,  
 23 has been disclosed to the Bankruptcy Court, and any such payment made before the confirmation of  
 the Plan is reasonable or, if such payment is to be fixed after the confirmation of the Plan, such  
 25 payment is subject to the approval of the Bankruptcy Court as reasonable.
- 26 5. Each holder of an impaired claim either has accepted the Plan or will receive  
 or retain under the Plan on account of such holder's claims, property of a value, as of the distribution

1 date, that is not less than the amount that such entity would receive or retain if the Debtor was  
 2 liquidated on such date under chapter 7 of the Bankruptcy Code. See "Best Interests Test," infra.

3       6.       Each class of claims has either accepted the Plan or is not impaired under the  
 4 Plan. As to equity interests that are deemed to reject the Plan, see "Classification," infra.

5       7.       Except to the extent that the holder of a particular claim has agreed to a  
 6 different treatment of such claim, the Plan provides that Allowed Administrative Claims and  
 7 Allowed Priority Tax Claims will be paid in full on the Effective Date of the Plan.

8       8.       At least one class of claims has accepted the Plan, determined without  
 9 including any acceptance of the Plan by any insider holding a claim in such class.

10       9.       Confirmation of the Plan is not likely to be followed by the need for further  
 11 financial reorganization or liquidation of the Debtor under the Plan, unless such reorganization or  
 12 liquidation is proposed in the Plan. See "Feasibility and Risk Factors," infra.

13       10.       All fees payable under section 1930 of title 28 as determined by the Court at  
 14 the confirmation hearing have been paid or the Plan provides for payment of all such fees on the  
 15 Effective Date.

16       11.       The Plan provides for the continuation after the Effective Date of payment of  
 17 all retiree benefits, as such term is defined in section 1114 of the Bankruptcy Code, at the level  
 18 established pursuant to subsection 1114(e)(1)(B) or 1114(g) of the Bankruptcy Code.

19       The Debtor believes that, upon acceptance of the Plan by the class of claims entitled to  
 20 vote, the Plan will satisfy all of the applicable statutory requirements of chapter 11 of the Bankruptcy  
 21 Code, that the Debtor has complied or will have complied with all of the requirements of chapter 11,  
 22 and that the Plan is being proposed and will be submitted to the Bankruptcy Court in good faith.

23       **C.       Feasibility and Risk Factors.**

24       The Bankruptcy Code requires that a plan proponent demonstrate that the  
 25 consummation of the Plan is not likely to be followed by liquidation or the need for further financial  
 26 reorganization of the Debtor, unless that liquidation is proposed in the Plan. The feasibility test  
 27 essentially requires the proponent demonstrate that it has sufficient ability to make the payments  
 28 required under the Plan.

1                   On the Effective Date, the Debtor will have sufficient cash on hand (see Section  
 2 III.H.1, supra) to make payments to creditors on account of anticipated Administrative Expense  
 3 Claims, Secured Claims (if any), Priority Tax Claims, Priority Claims, Convenience Claims, and  
 4 General Unsecured Claims.

5                   Therefore, the Plan is feasible with respect to payment to be made to the holders of  
 6 Administrative Claims, Secured Claims (if any), Priority Tax Claims, Priority Claims, Convenience  
 7 Claims, and General Unsecured Claims. The Debtor has demonstrated that it has sufficient ability to  
 8 make the payments required under the Plan when necessary, and that the Plan is feasible.

9                   **D.      Best Interests Of Creditors Test.**

10                  Confirmation requires, among other things, that each holder of a claim in an impaired  
 11 class and each holder of an interest either: (i) accepts the Plan; or (ii) receives or retains under the  
 12 Plan property of a value, as of the Effective Date, that is not less than the value such holder would  
 13 receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code. This  
 14 requirement is commonly referred to as the "Best Interests Test".

15                  To determine if the Plan is in the best interest of the one impaired class in the Plan,  
 16 the present value of the distributions from the proceeds of the liquidation of the Debtor's assets and  
 17 properties, after subtracting the amounts attributable to the foregoing claims, is then compared with  
 18 the value of the property offered to each such class under the Plan.

19                  Similar to a chapter 7 liquidation, the Plan provides for the orderly liquidation of the  
 20 Debtor's remaining noncash assets such as the Tax Refunds, and for the distribution of the proceeds  
 21 in accordance with the priority scheme established by the Bankruptcy Code and applicable law.

22                  If this Case was converted to a chapter 7 liquidation, the primary difference would be  
 23 that a trustee would be appointed by the Bankruptcy Court. That trustee would liquidate the  
 24 remaining assets of the Debtor's estate and distribute the proceeds in accordance with the priorities  
 25 established under the Bankruptcy Code.

26                  All administrative expenses of the chapter 7 case, including the trustee's fees (which  
 27 can be as high as 3% of the total amount collected and disbursed) would have to be paid in full  
 28 before payment of the unpaid administrative expenses from the prior chapter 11 Case. Unpaid

1 Chapter 11 administrative expenses would, in turn, be paid in full before any distribution could be  
 2 made to unsecured creditors. It is unusual for distributions to be made within one year of the  
 3 appointment of a chapter 7 trustee in a case involving substantial assets or claims. In addition, the  
 4 chapter 7 trustee would not have the expertise and familiarity with the Tax Refund Complaint, FDIC  
 5 Claim Objection, or any other potential claim objections to assist in the litigation that will occur  
 6 during the claims objection process.

7                   Thus, in a chapter 7 liquidation, it is likely the total liquidation proceeds would be  
 8 approximately the same, or possibly less. However, the administrative expenses associated with the  
 9 chapter 7 case would very likely exceed the expenses that the Debtor projects will be incurred in the  
 10 implementation of the Plan, and the distributions likely would be delayed longer than the  
 11 distributions that will be made under the Plan. Therefore, the Debtor believes that the Plan satisfies  
 12 the requirements of the "best interests" test and provides creditors at least as much present value as  
 13 they would receive in a chapter 7 liquidation.

14                   **E. Classification**

15                   In accordance with Bankruptcy Code section 1122, the Plan provides for the  
 16 classification of four (4) classes of claims and one class of interests. Section 1122(a) permits a plan  
 17 to place a claim or an interest in a particular class only if the claim or interest is substantially similar  
 18 to the other claims or interests in that class. The Debtor believes that the classification of claims and  
 19 interests under the Plan is appropriate and consistent with applicable law.

20                   Since the equity interests in Class 5 under the Plan neither receive nor retain anything  
 21 under the Plan, they are deemed to reject the Plan. The Bankruptcy Court may nevertheless confirm  
 22 the Plan if all other requirements of section 1129(a) of the Bankruptcy Code are satisfied, and if the  
 23 Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable"  
 24 with respect thereto.

25                   **1. No Unfair Discrimination**

26                   This test applies to classes of claims or equity interests that are of equal priority and  
 27 are receiving different treatment under a plan or reorganization. The test does not require that the  
 28

1 treatment be the same or equivalent, but that such treatment be "fair". Since all of the classes of  
 2 claims that are receiving payment under the Plan are senior in priority to the holders of allowed  
 3 interests in Class 5, the Debtor believes that Class 5 is not treated in an unfair discriminatory manner.  
 4 Moreover, no class of claims will receive payments or property with an aggregate value greater than the  
 5 aggregate value of the allowed claims in such class.

6 **2. Fair And Equitable Test**

7 The Bankruptcy Code establishes the "fair and equitable" test for holders of interests  
 8 which provides that such holders must receive on the Effective Date property of a value equal to the  
 9 greatest of the allowed amount of any fixed liquidation preference or redemption price to which the  
 10 holder is entitled (or the value of such interest) or no holders of a junior interest may receive or  
 11 retain anything under the Plan. Since holders of Class 5 equity interests are neither entitled to a  
 12 fixed liquidation preference nor a fixed redemption price, and since no holder of an interest junior to  
 13 the holders of the Class 5 equity interests will receive or retain anything under the Plan, the Plan is  
 14 fair and equitable as to Class 5.

15 **VII.**

16 **ALTERNATIVES TO CONFIRMATION AND  
 17 CONSUMMATION OF THE PLAN OF LIQUIDATION**

18 The Debtor believes that the Plan affords holders of allowed claims the potential for a  
 19 fair realization of the value of the Debtor's assets that is more than would be realized under a  
 20 chapter 7 liquidation. As discussed above, if no plan can be confirmed, the Debtor's case may be  
 21 converted to a case under chapter 7 of the Bankruptcy Code, under which a trustee would be  
 22 appointed to liquidate the Debtor's assets for distribution to creditors in accordance with the  
 23 priorities established by the Bankruptcy Code. A discussion of the effects that a chapter 7  
 24 liquidation would have on the recovery by holders of claims and interests is set forth above. **THE**  
 25 **DEBTOR BELIEVES THAT CONFIRMATION OF THE PLAN IS PREFERABLE BECAUSE IT**  
 26 **IS EXPECTED TO PROVIDE GREATER RECOVERIES AND INVOLVE LESS DELAY AND**  
 27 **LOWER ADMINISTRATIVE COSTS. ACCORDINGLY, THE DEBTOR URGES HOLDERS OF**

1 CLASS 3 CLAIMS TO VOTE TO ACCEPT THE PLAN BY SO INDICATING ON THEIR  
2 BALLOTS AND RETURNING THEM AS SPECIFIED IN THE NOTICE.

3 **VIII.**

4 **RECOMMENDATION AND CONCLUSION**

5 The Debtor believes that confirmation and implementation of the Plan is preferable to  
6 any feasible alternatives, because the Plan will provide greater recoveries for the holders of Allowed  
7 Claims in Class 3. Accordingly, the Debtor urges Holders of impaired Claims in Class 3 to vote to  
8 accept the Plan by so indicating on their Ballots and returning them as specified in this Disclosure  
9 Statement and on the Ballots.

10

11 DATED: October 4, 2010

12 **IMPERIAL CAPITAL BANCORP, INC.**

13

14

15

16

17

Submitted by:

18

19 Stutman, Treister & Glatt,  
Professional Corporation

20

21

By: Gary Klausner for  
22 Gary E. Klausner, Esq.  
Reorganization Counsel  
23 to Debtor and Debtor in Possession

24

25

26

27

28

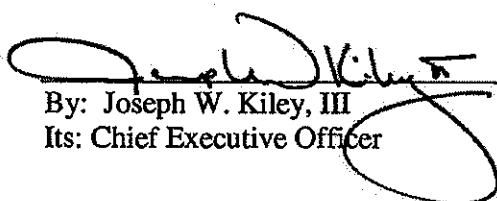
  
By: Joseph W. Kiley, III  
Its: Chief Executive Officer

Exhibit "A"

1 GARY E. KLAUSNER (State Bar. No. 69077), and  
 2 GREGORY K. JONES (State Bar. No. 181072) Members of  
 3 STUTMAN, TREISTER & GLATT  
 4 PROFESSIONAL CORPORATION  
 5 1901 Avenue of the Stars, 12<sup>th</sup> Floor  
 6 Los Angeles, California 90067  
 7 Telephone: (310) 228-5605  
 8 Facsimile: (310) 228-5788

5 Reorganization Counsel for  
 6 Debtor and Debtor in Possession

7 Debtor's Mailing Address:  
 8 888 Prospect Street, Suite 300  
 9 Los Angeles, California 92037

10 **UNITED STATES BANKRUPTCY COURT  
 11 SOUTHERN DISTRICT OF CALIFORNIA**

12 In re ) Case No. 09-19431-LA11  
 13 )  
 14 IMPERIAL CAPITAL BANCORP, INC., ) Chapter 11  
 15 a Delaware corporation, )  
 16 )  
 17 )  
 18 )  
 19 )  
 20 )  
 21 )  
 22 )  
 23 )  
 24 )  
 25 )  
 26 )  
 27 )  
 28 )  
 29 )  
 30 )  
 31 )  
 32 )  
 33 )  
 34 )  
 35 )  
 36 )  
 37 )  
 38 )  
 39 )  
 40 )  
 41 )  
 42 )  
 43 )  
 44 )  
 45 )  
 46 )  
 47 )  
 48 )  
 49 )  
 50 )  
 51 )  
 52 )  
 53 )  
 54 )  
 55 )  
 56 )  
 57 )  
 58 )  
 59 )  
 60 )  
 61 )  
 62 )  
 63 )  
 64 )  
 65 )  
 66 )  
 67 )  
 68 )  
 69 )  
 70 )  
 71 )  
 72 )  
 73 )  
 74 )  
 75 )  
 76 )  
 77 )  
 78 )  
 79 )  
 80 )  
 81 )  
 82 )  
 83 )  
 84 )  
 85 )  
 86 )  
 87 )  
 88 )  
 89 )  
 90 )  
 91 )  
 92 )  
 93 )  
 94 )  
 95 )  
 96 )  
 97 )  
 98 )  
 99 )  
 100 )  
 101 )  
 102 )  
 103 )  
 104 )  
 105 )  
 106 )  
 107 )  
 108 )  
 109 )  
 110 )  
 111 )  
 112 )  
 113 )  
 114 )  
 115 )  
 116 )  
 117 )  
 118 )  
 119 )  
 120 )  
 121 )  
 122 )  
 123 )  
 124 )  
 125 )  
 126 )  
 127 )  
 128 )  
 129 )  
 130 )  
 131 )  
 132 )  
 133 )  
 134 )  
 135 )  
 136 )  
 137 )  
 138 )  
 139 )  
 140 )  
 141 )  
 142 )  
 143 )  
 144 )  
 145 )  
 146 )  
 147 )  
 148 )  
 149 )  
 150 )  
 151 )  
 152 )  
 153 )  
 154 )  
 155 )  
 156 )  
 157 )  
 158 )  
 159 )  
 160 )  
 161 )  
 162 )  
 163 )  
 164 )  
 165 )  
 166 )  
 167 )  
 168 )  
 169 )  
 170 )  
 171 )  
 172 )  
 173 )  
 174 )  
 175 )  
 176 )  
 177 )  
 178 )  
 179 )  
 180 )  
 181 )  
 182 )  
 183 )  
 184 )  
 185 )  
 186 )  
 187 )  
 188 )  
 189 )  
 190 )  
 191 )  
 192 )  
 193 )  
 194 )  
 195 )  
 196 )  
 197 )  
 198 )  
 199 )  
 200 )  
 201 )  
 202 )  
 203 )  
 204 )  
 205 )  
 206 )  
 207 )  
 208 )  
 209 )  
 210 )  
 211 )  
 212 )  
 213 )  
 214 )  
 215 )  
 216 )  
 217 )  
 218 )  
 219 )  
 220 )  
 221 )  
 222 )  
 223 )  
 224 )  
 225 )  
 226 )  
 227 )  
 228 )  
 229 )  
 230 )  
 231 )  
 232 )  
 233 )  
 234 )  
 235 )  
 236 )  
 237 )  
 238 )  
 239 )  
 240 )  
 241 )  
 242 )  
 243 )  
 244 )  
 245 )  
 246 )  
 247 )  
 248 )  
 249 )  
 250 )  
 251 )  
 252 )  
 253 )  
 254 )  
 255 )  
 256 )  
 257 )  
 258 )  
 259 )  
 260 )  
 261 )  
 262 )  
 263 )  
 264 )  
 265 )  
 266 )  
 267 )  
 268 )  
 269 )  
 270 )  
 271 )  
 272 )  
 273 )  
 274 )  
 275 )  
 276 )  
 277 )  
 278 )  
 279 )  
 280 )  
 281 )  
 282 )  
 283 )  
 284 )  
 285 )  
 286 )  
 287 )  
 288 )  
 289 )  
 290 )  
 291 )  
 292 )  
 293 )  
 294 )  
 295 )  
 296 )  
 297 )  
 298 )  
 299 )  
 300 )  
 301 )  
 302 )  
 303 )  
 304 )  
 305 )  
 306 )  
 307 )  
 308 )  
 309 )  
 310 )  
 311 )  
 312 )  
 313 )  
 314 )  
 315 )  
 316 )  
 317 )  
 318 )  
 319 )  
 320 )  
 321 )  
 322 )  
 323 )  
 324 )  
 325 )  
 326 )  
 327 )  
 328 )  
 329 )  
 330 )  
 331 )  
 332 )  
 333 )  
 334 )  
 335 )  
 336 )  
 337 )  
 338 )  
 339 )  
 340 )  
 341 )  
 342 )  
 343 )  
 344 )  
 345 )  
 346 )  
 347 )  
 348 )  
 349 )  
 350 )  
 351 )  
 352 )  
 353 )  
 354 )  
 355 )  
 356 )  
 357 )  
 358 )  
 359 )  
 360 )  
 361 )  
 362 )  
 363 )  
 364 )  
 365 )  
 366 )  
 367 )  
 368 )  
 369 )  
 370 )  
 371 )  
 372 )  
 373 )  
 374 )  
 375 )  
 376 )  
 377 )  
 378 )  
 379 )  
 380 )  
 381 )  
 382 )  
 383 )  
 384 )  
 385 )  
 386 )  
 387 )  
 388 )  
 389 )  
 390 )  
 391 )  
 392 )  
 393 )  
 394 )  
 395 )  
 396 )  
 397 )  
 398 )  
 399 )  
 400 )  
 401 )  
 402 )  
 403 )  
 404 )  
 405 )  
 406 )  
 407 )  
 408 )  
 409 )  
 410 )  
 411 )  
 412 )  
 413 )  
 414 )  
 415 )  
 416 )  
 417 )  
 418 )  
 419 )  
 420 )  
 421 )  
 422 )  
 423 )  
 424 )  
 425 )  
 426 )  
 427 )  
 428 )  
 429 )  
 430 )  
 431 )  
 432 )  
 433 )  
 434 )  
 435 )  
 436 )  
 437 )  
 438 )  
 439 )  
 440 )  
 441 )  
 442 )  
 443 )  
 444 )  
 445 )  
 446 )  
 447 )  
 448 )  
 449 )  
 450 )  
 451 )  
 452 )  
 453 )  
 454 )  
 455 )  
 456 )  
 457 )  
 458 )  
 459 )  
 460 )  
 461 )  
 462 )  
 463 )  
 464 )  
 465 )  
 466 )  
 467 )  
 468 )  
 469 )  
 470 )  
 471 )  
 472 )  
 473 )  
 474 )  
 475 )  
 476 )  
 477 )  
 478 )  
 479 )  
 480 )  
 481 )  
 482 )  
 483 )  
 484 )  
 485 )  
 486 )  
 487 )  
 488 )  
 489 )  
 490 )  
 491 )  
 492 )  
 493 )  
 494 )  
 495 )  
 496 )  
 497 )  
 498 )  
 499 )  
 500 )  
 501 )  
 502 )  
 503 )  
 504 )  
 505 )  
 506 )  
 507 )  
 508 )  
 509 )  
 510 )  
 511 )  
 512 )  
 513 )  
 514 )  
 515 )  
 516 )  
 517 )  
 518 )  
 519 )  
 520 )  
 521 )  
 522 )  
 523 )  
 524 )  
 525 )  
 526 )  
 527 )  
 528 )  
 529 )  
 530 )  
 531 )  
 532 )  
 533 )  
 534 )  
 535 )  
 536 )  
 537 )  
 538 )  
 539 )  
 540 )  
 541 )  
 542 )  
 543 )  
 544 )  
 545 )  
 546 )  
 547 )  
 548 )  
 549 )  
 550 )  
 551 )  
 552 )  
 553 )  
 554 )  
 555 )  
 556 )  
 557 )  
 558 )  
 559 )  
 560 )  
 561 )  
 562 )  
 563 )  
 564 )  
 565 )  
 566 )  
 567 )  
 568 )  
 569 )  
 570 )  
 571 )  
 572 )  
 573 )  
 574 )  
 575 )  
 576 )  
 577 )  
 578 )  
 579 )  
 580 )  
 581 )  
 582 )  
 583 )  
 584 )  
 585 )  
 586 )  
 587 )  
 588 )  
 589 )  
 590 )  
 591 )  
 592 )  
 593 )  
 594 )  
 595 )  
 596 )  
 597 )  
 598 )  
 599 )  
 600 )  
 601 )  
 602 )  
 603 )  
 604 )  
 605 )  
 606 )  
 607 )  
 608 )  
 609 )  
 610 )  
 611 )  
 612 )  
 613 )  
 614 )  
 615 )  
 616 )  
 617 )  
 618 )  
 619 )  
 620 )  
 621 )  
 622 )  
 623 )  
 624 )  
 625 )  
 626 )  
 627 )  
 628 )  
 629 )  
 630 )  
 631 )  
 632 )  
 633 )  
 634 )  
 635 )  
 636 )  
 637 )  
 638 )  
 639 )  
 640 )  
 641 )  
 642 )  
 643 )  
 644 )  
 645 )  
 646 )  
 647 )  
 648 )  
 649 )  
 650 )  
 651 )  
 652 )  
 653 )  
 654 )  
 655 )  
 656 )  
 657 )  
 658 )  
 659 )  
 660 )  
 661 )  
 662 )  
 663 )  
 664 )  
 665 )  
 666 )  
 667 )  
 668 )  
 669 )  
 670 )  
 671 )  
 672 )  
 673 )  
 674 )  
 675 )  
 676 )  
 677 )  
 678 )  
 679 )  
 680 )  
 681 )  
 682 )  
 683 )  
 684 )  
 685 )  
 686 )  
 687 )  
 688 )  
 689 )  
 690 )  
 691 )  
 692 )  
 693 )  
 694 )  
 695 )  
 696 )  
 697 )  
 698 )  
 699 )  
 700 )  
 701 )  
 702 )  
 703 )  
 704 )  
 705 )  
 706 )  
 707 )  
 708 )  
 709 )  
 710 )  
 711 )  
 712 )  
 713 )  
 714 )  
 715 )  
 716 )  
 717 )  
 718 )  
 719 )  
 720 )  
 721 )  
 722 )  
 723 )  
 724 )  
 725 )  
 726 )  
 727 )  
 728 )  
 729 )  
 730 )  
 731 )  
 732 )  
 733 )  
 734 )  
 735 )  
 736 )  
 737 )  
 738 )  
 739 )  
 740 )  
 741 )  
 742 )  
 743 )  
 744 )  
 745 )  
 746 )  
 747 )  
 748 )  
 749 )  
 750 )  
 751 )  
 752 )  
 753 )  
 754 )  
 755 )  
 756 )  
 757 )  
 758 )  
 759 )  
 760 )  
 761 )  
 762 )  
 763 )  
 764 )  
 765 )  
 766 )  
 767 )  
 768 )  
 769 )  
 770 )  
 771 )  
 772 )  
 773 )  
 774 )  
 775 )  
 776 )  
 777 )  
 778 )  
 779 )  
 780 )  
 781 )  
 782 )  
 783 )  
 784 )  
 785 )  
 786 )  
 787 )  
 788 )  
 789 )  
 790 )  
 791 )  
 792 )  
 793 )  
 794 )  
 795 )  
 796 )  
 797 )  
 798 )  
 799 )  
 800 )  
 801 )  
 802 )  
 803 )  
 804 )  
 805 )  
 806 )  
 807 )  
 808 )  
 809 )  
 810 )  
 811 )  
 812 )  
 813 )  
 814 )  
 815 )  
 816 )  
 817 )  
 818 )  
 819 )  
 820 )  
 821 )  
 822 )  
 823 )  
 824 )  
 825 )  
 826 )  
 827 )  
 828 )  
 829 )  
 830 )  
 831 )  
 832 )  
 833 )  
 834 )  
 835 )  
 836 )  
 837 )  
 838 )  
 839 )  
 840 )  
 841 )  
 842 )  
 843 )  
 844 )  
 845 )  
 846 )  
 847 )  
 848 )  
 849 )  
 850 )  
 851 )  
 852 )  
 853 )  
 854 )  
 855 )  
 856 )  
 857 )  
 858 )  
 859 )  
 860 )  
 861 )  
 862 )  
 863 )  
 864 )  
 865 )  
 866 )  
 867 )  
 868 )  
 869 )  
 870 )  
 871 )  
 872 )  
 873 )  
 874 )  
 875 )  
 876 )  
 877 )  
 878 )  
 879 )  
 880 )  
 881 )  
 882 )  
 883 )  
 884 )  
 885 )  
 886 )  
 887 )  
 888 )  
 889 )  
 890 )  
 891 )  
 892 )  
 893 )  
 894 )  
 895 )  
 896 )  
 897 )  
 898 )  
 899 )  
 900 )  
 901 )  
 902 )  
 903 )  
 904 )  
 905 )  
 906 )  
 907 )  
 908 )  
 909 )  
 910 )  
 911 )  
 912 )  
 913 )  
 914 )  
 915 )  
 916 )  
 917 )  
 918 )  
 919 )  
 920 )  
 921 )  
 922 )  
 923 )  
 924 )  
 925 )  
 926 )  
 927 )  
 928 )  
 929 )  
 930 )  
 931 )  
 932 )  
 933 )  
 934 )  
 935 )  
 936 )  
 937 )  
 938 )  
 939 )  
 940 )  
 941 )  
 942 )  
 943 )  
 944 )  
 945 )  
 946 )  
 947 )  
 948 )  
 949 )  
 950 )  
 951 )  
 952 )  
 953 )  
 954 )  
 955 )  
 956 )  
 957 )  
 958 )  
 959 )  
 960 )  
 961 )  
 962 )  
 963 )  
 964 )  
 965 )  
 966 )  
 967 )  
 968 )  
 969 )  
 970 )  
 971 )  
 972 )  
 973 )  
 974 )  
 975 )  
 976 )  
 977 )  
 978 )  
 979 )  
 980 )  
 981 )  
 982 )  
 983 )  
 984 )  
 985 )  
 986 )  
 987 )  
 988 )  
 989 )  
 990 )  
 991 )  
 992 )  
 993 )  
 994 )  
 995 )  
 996 )  
 997 )  
 998 )  
 999 )  
 1000 )

**Plan Confirmation Hearing**

Date: [To Be Set]  
 Time: [To Be Set]  
 Place: Courtroom 2, Room 118  
 Jason Weinberger U.S. Courthouse.  
 325 West "F" Street  
 San Diego, CA 92101-6991

## TABLE OF CONTENTS

	<b>Page(s)</b>	
2		
3	ARTICLE I INTRODUCTION .....	1
4		
5	ARTICLE II DEFINITIONS AND RULES OF CONSTRUCTION.....	1
6		
7	A.    Specific Definitions. ....	1
8		
9	B.    Interpretation, Rules of Construction and Computation of Time .....	7
10		
11	ARTICLE III CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS .....	8
12		
13	A.    Unclassified Claims. ....	8
14		
15	1.    Administrative Claims. ....	8
16		
17	2.    Priority Tax Claims.....	9
18		
19	3.    Classified Claims And Interests.....	10
20		
21	a.    Class 1 (Secured Claims). ....	10
22		
23	b.    Class 2 (Priority Claims).....	10
24		
25	c.    Class 3 (General Unsecured Claims). ....	10
26		
27	d.    Class 4 (Convenience Claims). ....	11
28		
1.    e.    Class 5 (Holders Of Interests In The Debtor). ....	11	
19		
ARTICLE IV TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES .....	11	
20		
ARTICLE V MEANS OF IMPLEMENTATION .....	12	
21		
A.    Distributions and Actions on the Effective Date. ....	12	
22		
B.    Liquidation Of Remaining Assets.....	12	
23		
C.    Post-Effective Date Board of Directors.....	14	
24		
D.    Distributions to Class 3.....	15	
25		
E.    Maintenance of Bank Accounts.....	16	
26		
F.    Form of Distribution/Udelliverable Distributions.....	16	
27		
G.    Corporate Matters Regarding The Debtor. ....	17	
28		
1.    Cancellation Of Equity Interests.....	17	

1	2.	Dissolution Of Debtor.....	18
2	3.	Bylaws of the Revested Debtor.....	18
3	H.	Revesting Of Assets.....	18
4	I.	Prosecution of Recovery Rights and Recovery Rights Against Insiders.....	18
5	J.	Effect of Confirmation.....	19
6	K.	Nondischarge And Injunction.....	19
7	1.	Nondischarge Of Debtor.....	19
8	2.	Injunction.....	19
9	L.	Exemption From Certain Transfer Taxes And Further Transactions.....	20
10	M.	Corporate Action.....	20
11	N.	Retention Of Jurisdiction.....	21
12	O.	Successors And Assigns.....	22
13	P.	Modification of the Plan.....	22
14	Q.	Objections to Claims.....	23
15	R.	Limitation of Liability.....	24
16	S.	Indemnification.....	24
17	T.	Cramdown.....	24
18	ARTICLE VI MISCELLANEOUS .....		25
19	ARTICLE VII CONFIRMATION REQUEST .....		26
20			
21			
22			
23			
24			
25			
26			
27			
28			

## ARTICLE I

## INTRODUCTION

The Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code (the "Code") on December 18, 2009, and is managing its affairs as a debtor in possession pursuant to sections 1107(a) and 1108 of the Code. This document is the Chapter 11 Plan ("Plan") proposed by the Debtor (the "Plan Proponent"). Sent to you in the same envelope as this document is the Disclosure Statement which has been approved by the Bankruptcy Court, and which is provided to help you understand and evaluate the Plan.

This is a liquidating plan. The Plan Proponent will make payments under the Plan by reducing all assets of the Estate to Cash, including, without limitation, by prosecuting any Recovery Rights and by having the Post-Effective Date Committee prosecute any Recovery Rights Against Insiders, and distributing the Cash to Creditors pursuant to the terms of this Plan. This Plan contemplates the liquidation of all of the Debtor's assets and the termination of all of the Debtor's business operations.

## ARTICLE II

## **DEFINITIONS AND RULES OF CONSTRUCTION**

## A. Specific Definitions.

In addition to such other terms as are defined in other sections hereof, the following terms shall have the following meanings:

1.     **"Administrative Claim"** means a Claim for payment of an administrative expense of a kind specified in section 503(b) of the Code and referred to in section 507(a)(l) of the Code, including compensation of and reimbursement of costs to Professionals, and all fees and charges assessed against the Debtor and the Estate under 28 U.S.C. section 1930.

2. "**Allowed Administrative Claim**" means all or that portion of an Administrative Claim which is an Allowed Claim.

3.     **"Allowed Claim"** means that portion of a Claim which: (a) was scheduled by the Debtor pursuant to section 521 of the Code, other than a Claim scheduled as

1 disputed, contingent or unliquidated; (b) is set forth in a proof of claim which was timely filed  
 2 with the Bankruptcy Court, and as to which no objection has been filed within the time provided  
 3 by the Plan; or (c) if a proof of claim was timely filed and an objection to the proof of claim was  
 4 filed, has been allowed by a Final Order.

5       4.       **Allowed Convenience Claim**" means all or a portion of a Convenience  
 6 Claim which is an Allowed Claim.

7       5.       **Allowed Priority Claim**" means all or that portion of a Priority Claim  
 8 which is an Allowed Claim.

9       6.       **Allowed Secured Claim**" means an Allowed Claim secured by a lien on  
 10 any property of the Estate, but only to the extent of the value of the interest of the holder of such  
 11 Allowed Claim in the interest of the Estate in such property, the calculation of which shall not  
 12 include any demand for default interest, penalty interest or other similar demands.

13       7.       **Allowed Unsecured Claim**" means all or that portion of an Unsecured  
 14 Claim which is an Allowed Claim.

15       8.       **Bankruptcy Court**" means the United States Bankruptcy Court for the  
 16 Southern District of California, having jurisdiction over the Case and, to the extent of any  
 17 reference made pursuant to section 157 of title 28 of the United States Code, the unit of such  
 18 District Court pursuant to section 151 of title 28 of the United States Code; or, in the event such  
 19 court ceases to exercise jurisdiction over the Case, such court or unit thereof that exercises  
 20 jurisdiction over the Case in lieu thereof.

21       9.       **Bankruptcy Rules**" means the Federal Rules of Bankruptcy Procedure  
 22 and the Local Bankruptcy Rules for the Bankruptcy Court, to the extent applicable to the Case,  
 23 including all amendments thereto to the extent such amendments are applicable to the Case.

24       10.       **Business Day**" means any day except Saturday, Sunday or any day on  
 25 which commercial banks in Los Angeles, California are authorized by law to close.

26       11.       **Case**" means the chapter 11 case under the Code, commenced by the  
 27 Debtor on the Petition Date.

28

1           12.    **"Cash"** means lawful currency of the United States of America and its  
 2 equivalents or a check issued by the Debtor or Revested Debtor.

3           13.    **"Claim"** means the term as defined in section 101(5) of the Code.

4           14.    **"Class"** means a group of Claims or Interests classified together in a class  
 5 designated in Article III of the Plan.

6           15.    **"Code"** means the Bankruptcy Code, as codified in Title 11 of the United  
 7 States Code, 11 U.S.C. § 101 *et seq.*, including all amendments thereto to the extent such  
 8 amendments are applicable to the Case.

9           16.    **"Committee"** means the Official Committee of General Unsecured  
 10 Creditors appointed by the Office of the United States Trustee in the Case, as it may be  
 11 constituted from time to time.

12           17.    **"Committee Designee"** means any individual designated by the  
 13 Committee.

14           18.    **"Confirmation Date"** means the date of Entry of the Confirmation Order.

15           19.    **"Confirmation Hearing"** means the hearing before the Bankruptcy Court  
 16 to be held in accordance with section 1128(a) of the Code.

17           20.    **"Confirmation Order"** means the order of the Bankruptcy Court  
 18 confirming the Plan pursuant to section 1129 of the Code.

19           21.    **"Convenience Claim"** means any Unsecured Claim that is (i) an Allowed  
 20 Claim for an amount of \$10,000 or less or (ii) is an Allowed Claim in an amount greater than  
 21 \$10,000, but which is reduced to \$10,000 by election of the holder thereof pursuant to such  
 22 holder's ballot. In no event shall any Convenience Claim exceed \$10,000 for the purposes of  
 23 allowance, treatment or distribution under this Plan.

24           22.    **"Creditor"** means any person that is the holder of a Claim.

25           23.    **"Debtor"** means Imperial Capital Bancorp, Inc., a Delaware corporation,  
 26 whether as a debtor or as a debtor in possession.

27           24.    **"Disclosure Statement"** means the **DISCLOSURE STATEMENT RE**  
 28 **CHAPTER 11 LIQUIDATING PLAN OF REORGANIZATION FOR DEBTOR**

1 **IMPERIAL CAPITAL BANCORP, INC., A DELAWARE CORPORATION DATED**  
 2 **OCTOBER 4, 2010** (and all annexes attached thereto or referenced therein) that relates to this  
 3 Plan and is approved pursuant to section 1125 of the Code in an Order Entered by the  
 4 Bankruptcy Court, as such Disclosure Statement may be amended, modified or supplemented.

5       25.     **"Disputed Claim"** means any Claim which is not an Allowed Claim.

6       26.     **"Effective Date"** means the date selected by the Debtor that is no more  
 7 than ten (10) Business Days following the date the Confirmation Order becomes a Final Order.

8       27.     **"Entered"** or **"Entry"** means the recording on the Bankruptcy Court  
 9 docket for the Case by the clerk of the Bankruptcy Court.

10      28.     **"Estate"** means, with respect to the Debtor, the estate created by section  
 11 541(a) of the Code on the Petition Date.

12      29.     **"Final Order"** means an order or judgment entered by the Court or any  
 13 other court exercising jurisdiction over the subject matter and the parties (i) that has not been  
 14 reversed, stayed, modified or amended; (ii) as to which no appeal, certiorari proceeding,  
 15 reargument, or other review or rehearing has been requested or is still pending; and (iii) as to  
 16 which the time for filing a notice of appeal or petition for certiorari shall have expired.

17 Notwithstanding, and in lieu of the foregoing, with respect to the Confirmation Order, Final  
 18 Order means an order or judgment of the Bankruptcy Court with respect to which no stay  
 19 pending appeal is in effect.

20      30.     **"Initial Distribution Date"** means the first Business Day on which a  
 21 distribution is made under the Plan to holders of Class 3 Allowed Claims.

22      31.     **"Insider"** means the term as defined in section 101(31) of the Code.

23      32.     **"Interests"** means any equity interests, ownership rights, or shares in the  
 24 Debtor (including, without limitation, all capital stock, stock certificates, common stock,  
 25 preferred stock, partnership interests, membership and other interests in a limited liability  
 26 company, rights, options, warrants, contingent warrants, convertible or exchangeable securities,  
 27 investment securities, subscriptions or other agreements and contractual rights to acquire or  
 28 obtain such an interest or share in the Debtor, partnership interests in the Debtor's stock

1 appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights,  
 2 preemptive rights and liquidation preferences, puts, calls or commitments of any character  
 3 whatsoever relating to any such equity, ownership interests or shares of capital stock of the  
 4 Debtor or obligating the Debtor to issue, transfer or sell any shares of capital stock) whether or  
 5 not certificated, transferable, voting or denominated "stock" or a similar security, and any Claim  
 6 or Cause of Action relating to or arising from any of the foregoing.

7       33.     **"Net Estate Proceeds"** means the Cash held by the Estate on the  
 8 Effective Date plus the proceeds received by the Estate from the liquidation of the assets of the  
 9 Estate after the Effective Date, less payment of and reserves for: (i) all costs of liquidating the  
 10 assets of the Estate; (ii) all Allowed Secured Claims; (iii) all Allowed Administrative Claims;  
 11 (iv) all Allowed Tax Claims; (v) all Allowed Priority Claims; (vi) all Allowed Convenience  
 12 Claims; and (vii) compensation to, and expenses of, the Revested Debtor, the Post-Effective Date  
 13 Board of Directors, and the Post-Effective Date Committee, including, counsel for the same.

14       34.     **"Person"** means an individual, partnership or corporation and such other  
 15 entities as defined and described in section 101(41) of the Code.

16       35.     **"Petition Date"** means December 18, 2009.

17       36.     **"Plan"** means this **CHAPTER 11 LIQUIDATING PLAN OF**  
 18 **REORGANIZATION FOR DEBTOR IMPERIAL CAPITAL BANCORP, INC., A**  
 19 **DELAWARE CORPORATION** (including all exhibits hereto), as modified or amended from  
 20 time to time.

21       37.     **"Post-Effective Date"** means the time period after the Effective Date.

22       38.     **"Post-Effective Date Committee"** means the Committee after the  
 23 Effective Date, which shall consist of the members of the Committee prior to the Effective Date  
 24 as may be reconstituted from time to time.

25       39.     **"Post-Effective Date Board of Directors"** means the board of directors  
 26 established pursuant to Article V, Section C of the Plan.

27       40.     **"Priority Claim"** means a Claim other than an Administrative Claim or a  
 28 Tax Claim which, if allowed, would be entitled to priority under section 507(a) of the Code.

1                   41.     **"Professionals"** means those Persons or entities (a) employed in the Case  
 2 under sections 327 or 1103 of the Code, and (b) entitled, under sections 330, 503(b), 506(b), or  
 3 507(a)(1) of the Code, to seek compensation for legal, accounting or other professional services  
 4 and the costs and expenses related to such services from the Debtor or the Estate.

5                   42.     **"Recovery Rights"** means any and all causes of action, Claims,  
 6 obligations, suits, debts, judgments, demands, whether at law or in equity, including, without  
 7 limitation, all rights and causes of action under sections 510, and 541 through 558, inclusive, of  
 8 the Code, and whether or not brought as of or after the Effective Date, which are the property of  
 9 the Debtor or the Estate, including any pending or future actions against the Federal Deposit  
 10 Insurance Corporation in its capacity as receiver of Imperial Capital Bank or otherwise.

11                  43.     **"Recovery Rights Against Insiders"** means all Recovery Rights against  
 12 any Insider of the Debtor.

13                  44.     **"Revested Debtor"** means the Debtor after the Effective Date of the Plan  
 14 during which time it shall continue the liquidation process as contemplated by the Plan and  
 15 perform all functions traditionally performed by a liquidating agent.

16                  45.     **"Secured Claim"** means a Claim secured by a lien on any property of the  
 17 Estate.

18                  46.     **"Tax Claim"** means a Claim entitled to priority under section 507(a)(8)  
 19 of the Code.

20                  47.     **"Trust Claims"** means the Unsecured Claims held by holders of the  
 21 preferred securities issued by five trusts created by the Debtor from September 2000 to  
 22 December 2002, and consisting of the ITLA Capital Statutory Trust I, ITLA Capital Statutory  
 23 Trust II, ITLA Capital Statutory Trust III, ITLA Capital Statutory Trust IV and ITLA Capital  
 24 Statutory Trust V.

25                  48.     **"Unsecured Claim"** means any Claim of a Creditor against the Debtor,  
 26 however arising, which is not an Administrative, Tax, Priority or Secured Claim.

1                   **B. Interpretation, Rules of Construction and Computation of Time**

2                   1. Any capitalized term used in this Plan that is not defined herein, or in  
3 other exhibits hereto, but that is defined and used in the Disclosure Statement has the meaning  
4 ascribed to that term in the Disclosure Statement.

5                   2. Any term used in this Plan that is not defined herein or in the Disclosure  
6 Statement, whether in this Article II or elsewhere, or other exhibits hereto, but that is used in the  
7 Code or the Bankruptcy Rules has the meaning ascribed to that term in (and shall be construed in  
8 accordance with the rules of construction under) the Code or the Bankruptcy Rules.

9                   3. The words "herein," "hereof," "hereto," "hereunder" and others of similar  
10 import refer to this Plan as a whole and not to any particular article, section, subsection or clause  
11 contained in this Plan.

12                   4. Unless specified otherwise in a particular reference, a reference in this  
13 Plan to an article or a section is a reference to that article or section of this Plan.

14                   5. Any reference in this Plan to a document being in a particular form or on  
15 particular terms and conditions means that the document shall be substantially in such form or  
16 substantially on such terms and conditions.

17                   6. Any reference in this Plan to an existing document means such document,  
18 as it may have been amended, modified or supplemented from time to time as of the Effective  
19 Date.

20                   7. Whenever from the context it is appropriate, each term stated in either the  
21 singular or the plural shall include both the singular and the plural.

22                   8. Except as otherwise provided herein, the rules of construction set forth in  
23 section 102 of the Code shall apply to this Plan.

24                   9. In computing any period of time prescribed or allowed by this Plan, the  
25 provisions of Bankruptcy Rule 9006(a) shall apply.

26                   10. All exhibits to this Plan are incorporated into this Plan, and shall be  
27 deemed to be included in this Plan, regardless of when filed with the Bankruptcy Court.

11. The provisions of the Plan shall control over the contents of the Disclosure Statement. The provisions of the Confirmation Order shall control over the contents of the Plan.

12. Whenever a distribution of property is required to be made on a particular date, the distribution shall be made on such date, or as soon as practicable thereafter.

### ARTICLE III

## CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

As required by the Code, the Plan classifies Claims and Interests in various Classes according to their right to priority of payments as provided in the Code. The Plan states whether each Class of Claims or Interests is impaired or unimpaired. The Plan provides the treatment each Class will receive under the Plan.

## A. Unclassified Claims.

Certain types of Claims are not placed into voting Classes; instead they are unclassified. They are not considered impaired and they do not vote on the Plan because they are automatically entitled to specific treatment provided for them in the Code. As such, the Proponent has not placed the following Claims in a Class. The treatment of these Claims is provided below.

## 1. Administrative Claims.

a. **Treatment.** Unless otherwise agreed to by the parties, each holder of an Allowed Administrative Claim shall receive Cash equal to the unpaid portion of such Allowed Administrative Claim on the later of (x) the Effective Date, (y) the date a Final Order of the Bankruptcy Court is Entered allowing the Administrative Claim, and (z) a date agreed on by the Debtor and the holder of the Allowed Administrative Claim.

**b. Bar Date For Administrative Claims.** All applications, including final applications, for compensation of Professionals for services rendered and for reimbursement of expenses incurred on or before the Effective Date, and any other request for compensation by any Person or entity for making a substantial contribution in the Case, and all other requests for payment of an Administrative Claim incurred before the Effective Date under

1 sections 507(a)(1) or 507(b) of the Code (except only for Claims under 28 U.S.C. section 1930)  
 2 shall be filed no later than sixty (60) days after the Confirmation Date.

3                   As to other administrative expenses that do not require Bankruptcy Court  
 4 approval to become Allowed Claims, Creditors shall submit such Claims to the Debtor no later  
 5 than sixty (60) days after the Confirmation Date or by such other bar date as the Bankruptcy  
 6 Court may set. Holders of claims for the provision of goods and services postpetition to the  
 7 Debtor need not file proofs of claim for administrative expenses.

8                   Any such Claim not filed or submitted as explained above within these deadlines  
 9 shall be forever barred, and any Creditor who is required to file a request for payment of such  
 10 Claim and who does not file such request by the applicable bar date shall be forever barred from  
 11 asserting such Claim against the Estate or its property.

12                   U.S. Bank, N.A and The Bank of New York Mellon, indenture trustees for the  
 13 trust preferred securities that form the basis for the Trust Claims has provided and will continue  
 14 to provide necessary services postpetition to the holders of the Trust Claims. All reasonable fees  
 15 and expenses of the indenture trustee (including the fees and expenses of professionals employed  
 16 by the indenture trustee) that are incurred in connection with the Case shall be deemed to be  
 17 allowed administrative expenses, and any such fees and expenses due and payable and not paid  
 18 as of the Effective Date shall be paid on the Effective Date; provided however that to the extent  
 19 such fees and expenses are due and payable after the Effective Date, such fees and expenses shall  
 20 be paid no later than ten (10) days after the applicable invoice date. The indenture trustee and its  
 21 professionals shall not be required to file any application with or obtain approval of the  
 22 Bankruptcy in order to receive payment of the fees and expenses. The indenture trustee shall be  
 23 entitled to reasonable fees and expenses incurred in the implementation of the Plan, including  
 24 with any such fees and expenses incurred in connection with distributions made under the Plan.

25                   **2. Priority Tax Claims.**

26                   Unless otherwise agreed to by the parties, each holder of an Allowed Tax Claim  
 27 shall receive Cash equal to the amount of the Allowed Tax Claim on the later of (x) the Effective  
 28 Date, and (y) the date an Order of the Bankruptcy Court is Entered allowing the Tax Claim.

1 Holders of Tax Claims shall not be entitled to receive any payment on account of interest that  
 2 accrued after the Petition Date on, or penalties with respect to or arising in connection with, such  
 3 Tax Claims, except as specifically allowed by the Bankruptcy Court.

4 **3. Classified Claims And Interests.**

5 **a. Class 1 (Secured Claims).**

6 Class 1 consists of all Secured Claims. Unless otherwise agreed to by the parties,  
 7 each holder of an Allowed Secured Claim shall receive on the later of (x) the Effective Date, and  
 8 (y) the date an Order of the Bankruptcy Court is Entered allowing the Secured Claim, on account  
 9 of and in full satisfaction of its Allowed Secured Claim, either of the following treatments at the  
 10 sole election of the Debtor, (i) Cash equal to the amount of the Allowed Secured Claim or (ii)  
 11 possession of the property in which the holder of the Allowed Secured Claim has a perfected,  
 12 unavoidable and enforceable lien, security interest or other charge and relief from the automatic  
 13 stay provided by section 362 of the Bankruptcy Code to foreclose, collect upon or setoff the  
 14 property in accordance with applicable non-bankruptcy law; provided, however that any time  
 15 after the Confirmation Date, the Debtor can elect to give to the holder of an Allowed Secured  
 16 Claim the treatment provided in subparagraph (ii) above. Class 1 is unimpaired under the Plan  
 17 and the holders of Class 1 Allowed Claims are deemed to accept the Plan. The Debtor does not  
 18 believe that there are any Secured Claims in this Case.

19 **b. Class 2 (Priority Claims).**

20 Class 2 consists of all Priority Claims. Unless otherwise agreed to by the parties,  
 21 each holder of an Allowed Priority Claim shall receive Cash equal to the amount of the Allowed  
 22 Priority Claim on the later of (x) the Effective Date, and (y) the date an Order of the Bankruptcy  
 23 Court is Entered allowing the Priority Claim. Class 2 is not impaired under the Plan and holders  
 24 of Class 2 Allowed Claims are deemed to accept the Plan.

25 **c. Class 3 (General Unsecured Claims).**

26 Class 3 consists of all Unsecured Claims against the Debtor which are not  
 27 included in any other Class in the Plan or otherwise provided for in the Plan, including the Trust  
 28 Claims. Each holder of an Allowed Unsecured Claim shall receive, on account of and in full

1 satisfaction of its Allowed Unsecured Claim, its pro-rata share of the Net Estate Proceeds.  
 2 Distributions to holders of Class 3 Claims shall be governed by Article V, Section D. of the Plan.  
 3 Class 3 is impaired under the Plan and holders of Class 3 Allowed Claims are entitled to vote to  
 4 accept or reject the Plan.

5 **d. Class 4 (Convenience Claims).**

6 Class 4 consists of Convenience Claims. Each holder of an Allowed Convenience  
 7 Claim shall receive, on account of and in full satisfaction of its Allowed Convenience Claim and  
 8 any Unsecured Claim reduced to a Convenience Claim, Cash equal to 100% of the amount of the  
 9 Allowed Convenience Claim on the later of (x) the Effective Date, and (y) the date an Order of  
 10 the Bankruptcy Court is Entered allowing the Convenience Claim. Class 4 is unimpaired under  
 11 the Plan and the holders of Class 4 Allowed Claims are deemed to accept the Plan.

12 **e. Class 5 (Holders Of Interests In The Debtor).**

13 Class 5 is comprised of holders of Interests in the Debtor. Holders of Class 5  
 14 Allowed Interests shall neither receive nor retain any property under the Plan and all Interests of  
 15 the Debtor shall be cancelled as of the Effective Date. Class 5 is impaired under the Plan and the  
 16 holders of Allowed Class 5 Interests are deemed to reject the Plan.

17 **ARTICLE IV**

18 **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

19 All executory contracts or unexpired leases of the Debtor, except (a) those  
 20 previously assumed and assigned by Bankruptcy Court order, or (b) those which are assumed  
 21 under the Plan are rejected. The Debtor shall file a schedule of executory contracts to be  
 22 assumed under the Plan no later than 20 days prior to the Confirmation Hearing.

23 Any Claims arising from the rejection of an executory contract or unexpired lease  
 24 as a result of confirmation of the Plan shall be filed with the Bankruptcy Court and served on the  
 25 Revested Debtor, and its counsel, no later than thirty (30) days after the Confirmation Date.

# ARTICLE V

## MEANS OF IMPLEMENTATION

#### A. Distributions and Actions on the Effective Date.

On the Effective Date, or as soon thereafter as practicable, and in accordance with the terms of the Plan:

1. The Debtor shall make the required payments to the holders of Allowed Administrative Claims, Allowed Tax Claims, Allowed Class 1 Claims, Allowed Class 2 Claims and Allowed Class 4 Claims.

2. The Revested Debtor shall administer all remaining property and assets, other than the Recovery Rights Against Insiders which shall be administered by the Post-Effective Date Committee, and distribute the proceeds thereof and the proceeds received from any Recovery Rights Against Insiders in accordance with the terms of the Plan.

3. The Revested Debtor shall prosecute and administer the Recovery Rights but not the Recovery Rights Against Insiders which shall be the sole province of the Post-Effective Date Committee.

4. On the Effective Date, the Post-Effective Date Committee shall have standing to and shall prosecute and administer the Recovery Rights Against Insiders as the Post-Effective Date Committee deems appropriate, in its sole discretion.

## **B. Liquidation Of Remaining Assets.**

1. On and after the Effective Date, the Revested Debtor shall liquidate and administer all the assets and other property of the Estate, including the Recovery Rights, but excluding the Recovery Rights Against Insiders, which shall be the sole province of the Post-Effective Date Committee, in accordance with the terms of the Plan. All the assets and other property of the Estate, including the Recovery Rights, but excluding the Recovery Rights Against Insiders, which shall be the sole province of the Post-Effective Date Committee, shall be reduced to Cash or abandoned if determined by the Revested Debtor to have no reasonably expected material value in excess of the expenses required to liquidate such assets, considering, among other things, the risk, delay and uncertainty attendant with such liquidation. The Net

1 Estate Proceeds will be distributed to holders of Class 3 Allowed Claims in accordance with the  
2 terms of the Plan.

3                   2. The Revested Debtor will be responsible for paying any quarterly United  
4 States Trustee fees that accrue after the Effective Date.

5                   3. The Revested Debtor shall be authorized, without any supervision or  
6 approval of the Bankruptcy Court or the Office of the United States Trustee, after notice to and  
7 subject to approval by the Post-Effective Date Board of Directors, to employ and compensate  
8 such persons, including counsel and accountants, as it may deem necessary to enable it to  
9 perform its functions hereunder, and the fees and costs of such employment and other  
10 expenditures shall be paid from Estate assets; subject to Article V, Section B.5. below.

11                  4. The Post-Effective Date Committee shall be authorized, without any  
12 supervision or approval of the Bankruptcy Court or the Office of the United States Trustee, after  
13 notice to the Post-Effective Date Board of Directors, to employ and compensate such persons,  
14 including counsel and accountants, as it may deem necessary to enable it to perform its functions  
15 hereunder, and the fees and costs of such employment and other expenditures shall be paid from  
16 Estate assets; subject to Article V, Section B.5. below.

17                  5. Professionals employed by the Revested Debtor and the Post-Effective  
18 Date Committee shall send monthly fee statements to the Revested Debtor and the Post-Effective  
19 Date Committee. In the event the Revested Debtor determines that a monthly fee statement of a  
20 Post-Effective Date Committee professional is unreasonable, the Revested Debtor will attempt to  
21 resolve such dispute with the Post-Effective Date Committee and the subject professional. In the  
22 event the Post-Effective Date Committee determines that a monthly fee statement of a Revested  
23 Debtor professional is unreasonable, the Post-Effective Date Committee will attempt to resolve  
24 such dispute with the Revested Debtor and the subject professional. If the parties are unable to  
25 resolved such dispute after a 30 day period, the dispute will be brought before the Bankruptcy  
26 Court for resolution.

27

28

1                   6. Pursuant to the Confirmation Order, on the Effective Date, the Post-  
 2 Effective Date Committee shall have standing to prosecute and administer all Recovery Rights  
 3 Against Insiders in its sole discretion.

4                   **C. Post-Effective Date Board of Directors.**

5                   1. On the Effective Date, the Post-Effective Date Board of Directors shall be  
 6 established with four (4) members, two (2) of whom shall be appointed by the Committee and  
 7 the other by the Revested Debtor. All final actions to be taken by the Debtor or the Revested  
 8 Debtor with respect to the assets of the Estate, including compromising, settling or abandoning  
 9 any actions related to the Recovery Rights (other than Recovery Rights Against Insiders) or  
 10 claims objections, shall be done after consultation with and the consent of the Post-Effective  
 11 Date Board of Directors.

12                   2. The Revested Debtor will provide the Post-Effective Date Board of  
 13 Directors with quarterly reports concerning the status of funds held by the Estate, the status of  
 14 Claims and objections to Claims, ongoing activities with respect to Recovery Rights and the date  
 15 of any proposed distributions. In addition, the Revested Debtor shall give the Post-Effective  
 16 Date Board of Directors at least thirty (30) days written notification of the date of the Final  
 17 Distribution (as such term is defined below).

18                   3. Each Member of the Post-Effective Date Board of Directors that is neither  
 19 an employee nor an officer of the Revested Debtor shall receive as compensation for his or her  
 20 services the sum of \$2,500 per quarter and shall be entitled to receive reimbursement for all  
 21 reasonable costs and expenses incurred in carrying out his or her duties. The Post-Effective Date  
 22 Board of Directors shall be entitled to retain and consult with professionals as may be deemed  
 23 necessary by the Post-Effective Date Board of Directors to carry out its responsibilities under the  
 24 terms of the Plan.

25                   4. Members of the Post-Effective Date Board of Directors may resign at any  
 26 time upon written notice to the other members of the Post-Effective Date Board of Directors.  
 27 Any vacancy on the Post-Effective Date Board of Directors will be filled by the Committee  
 28 Designee if the member appointed by the Committee resigns, or by the Revested Debtor if one

1 of its two members resign. The failure to fill a vacancy however shall have no effect on the Post-  
 2 Effective Date Board of Directors' authority under the Plan.

3 **D. Distributions to Class 3.**

4 1. As soon as is practicable after the Effective Date, the Revested Debtor  
 5 shall make a Cash interim distribution (the "Interim Distribution") from the Estate pursuant to  
 6 the terms of the Plan to the holders of Allowed Claims in Class 3; provided that if in the opinion  
 7 of the Revested Debtor and the Post-Effective Date Board of Directors such distribution would  
 8 be de minimis or impracticable in comparison to the time and costs involved in making an  
 9 Interim Distribution, then the Interim Distribution may be postponed until such time as there are  
 10 sufficient funds in the Estate.

11 2. The Interim Distribution shall consist of the funds on hand in the Estate at  
 12 the time such Interim Distribution is made, less a reserve (the "Reserve") estimated by the Post-  
 13 Effective Date Board of Directors in good faith for current and prospective fees, costs and  
 14 expenses of Post-Effective Date activities (including those of the Post-Effective Date Committee  
 15 ), for unpaid Administrative Claims and administrative expenses and for Disputed Claims. The  
 16 Interim Distribution shall be made pro rata to all holders of Class 3 Allowed Claims.

17 3. After an Interim Distribution has been made and a Reserve estimated, at  
 18 such time as a Claim that has been included in the Reserve becomes an Allowed Claim, an  
 19 amount necessary to make the Interim Distribution on account of such Allowed Claim (without  
 20 any interest thereon) shall be paid to the holder of such Allowed Claim by the Revested Debtor  
 21 within thirty (30) days after the Order allowing such Claim becomes a Final Order.

22 4. Except for the Final Distribution (as defined below), subsequent  
 23 distributions shall be made in the discretion of the Post-Effective Date Board of Directors, based  
 24 upon funds available for distribution and the time and costs involved in making any such  
 25 subsequent distribution. Any such subsequent distributions shall be made in accordance with  
 26 paragraphs (1), (2) and (3) above.

27 5. At such time as all actions relating to the Recovery Rights and Recovery  
 28 Rights Against Insiders have been completed, settled or abandoned and all other assets liquidated

1 to Cash or abandoned, the Revested Debtor shall make a final distribution (the "Final  
 2 Distribution") of all funds on hand in the Estate, after payment of any remaining costs, expenses  
 3 and fees of the Estate, pro rata to holders of Class 3 Allowed Claims pursuant to the terms of the  
 4 Plan.

5                 6.         No distribution, whether an Interim Distribution or Final Distribution, in  
 6 an amount less than \$1.00 shall be required to be made.

7                 **E.         Maintenance of Bank Accounts.**

8                 All Cash held by the Estate on the Effective Date plus the proceeds received by  
 9 the Estate from the liquidation of the assets of the Estate after the Effective Date shall be held in  
 10 one or more separate bank or other depository accounts or investment accounts, in accordance  
 11 with section 345 of the Bankruptcy Code. The Revested Debtor shall be entitled to use the  
 12 Debtor's bank accounts that are in existence as of the Effective Date and shall be authorized to  
 13 open such other bank or depository accounts as may be necessary or appropriate in its discretion  
 14 to enable it to carry out the provisions of the Plan. The Revested Debtor may, from time to time,  
 15 invest Cash held by the Estate on the Effective Date plus the proceeds received by the Estate  
 16 from the liquidation of the assets of the Estate in certificates of deposit, treasury bills, money  
 17 market accounts or other short term investments, consistent with section 345 of the Bankruptcy  
 18 Code. All interest earned thereon shall be retained for distribution to the holders of Allowed  
 19 Claims in Class 3 pursuant to the Plan.

20                 **F.         Form of Distribution/Undeliverable Distributions.**

21                 1.         All distributions under the Plan shall be made by check mailed by first-  
 22 class mail through the United States mail, with postage fully prepaid, or by wire transfer.  
 23 Distributions are deemed made under the Plan on the date of the mailing of the checks or the  
 24 wiring of funds. Distributions returned by the Post Office or undelivered due to lack of a current  
 25 address or for any other reason shall be retained by the Revested Debtor for a period of six (6)  
 26 months following their return unless claimed by the claimant within that time period.

27

28

1                   2. During the six (6) month period following any distribution, a claimant  
 2 may retrieve any returned distribution upon presentation to the Revested Debtor of satisfactory  
 3 proof that such holder is entitled to such distribution.

4                   3. After the expiration of six (6) months following the date a distribution is  
 5 made, holders of Allowed Claims entitled to returned distributions shall no longer be entitled  
 6 thereto, and such Allowed Claims shall be deemed disallowed without further Court order.  
 7 Thereafter, any unclaimed distributions shall be held in the Estate for distribution to holders of  
 8 Allowed Claims at the time of the Final Distribution.

9                   4. No provision contained in this Section F or in the Plan shall be interpreted  
 10 to require the Debtor, the Revested Debtor, the Post-Effective Date Board of Directors or the  
 11 Post-Effective Date Committee to attempt to locate any such person. The address shown on the  
 12 Debtor's schedules for a creditor, if such creditor has not filed a proof of claim, or on such  
 13 creditor's proof of claim filed with the Court shall be deemed to be a creditor's address for  
 14 purposes of distributions hereunder unless at least seven (7) days prior to any distribution a  
 15 written change of address is delivered to the Revested Debtor or counsel for the Revested  
 16 Debtor.

17                   **G. Corporate Matters Regarding The Debtor.**

18                   **1. Cancellation Of Equity Interests.**

19                   On the Effective Date, all Interests shall be cancelled and be of no further force or  
 20 effect, without any further action being required to effect such cancellation. Concurrently with  
 21 the cancellation of the Interests as required in this section, the Debtor will issue one share of new  
 22 common stock. This new share of stock will be held by the Committee Designee for the benefit  
 23 of all entities holding Allowed Unsecured Claims. Once the Final Distribution date has occurred  
 24 and the Court has Entered a Final Order closing this Case, this new share of stock will  
 25 automatically be cancelled without any further action. The members of the Post-Effective Date  
 26 Board of Directors shall not be replaced by the holder of the share of stock until all assets of the  
 27 Revested Debtor and the Estate have been liquidated, including the Recovery Rights, but  
 28 excluding the Recovery Rights Against Insiders.

## **2. Dissolution Of Debtor.**

On the date that both the Final Distribution has occurred and the Court has Entered a Final Order closing this Case, the Debtor/Revested Debtor shall be dissolved as a Delaware corporation, without any further action being required to effect such dissolution. The Debtor/Revested Debtor is authorized to file a certificate of dissolution with the Delaware Secretary of State. As of the Effective Date, the Debtor, as the Revested Debtor, will continue to be governed as a Delaware corporation in accordance with this Plan.

### 3. Bylaws of the Revested Debtor.

On the Effective Date, the bylaws of the Debtor shall be deemed to be amended to authorize the Post-Effective Date Board of Directors.

## **H. Revesting Of Assets.**

Pending the dissolution of the Debtor, the Debtor shall continue to exist after the Effective Date as a separate corporate entity, the Revested Debtor, with all the powers of a corporation under applicable law.

## **I. Prosecution of Recovery Rights and Recovery Rights Against Insiders.**

1. The Revested Debtor shall have full power and authority, to be exercised subject to consultation with, and the prior approval of, the Post-Effective Date Board of Directors to commence, if not already commenced, prosecute, settle and abandon any action related to the Recovery Rights but not as to Recovery Rights Against Insiders, subject to consultation rights of the Post-Effective Date Committee. After the Effective Date, all actions relating to the Recovery Rights shall be filed and prosecuted in the name of the Revested Debtor. Any counsel retained to prosecute Recovery Rights prior to the date the Confirmation Order becomes a Final Order shall not be disqualified from being retained by the Revested Debtor on the same terms and conditions of its prior employment solely by reason of that prior employment.

2. The Post-Effective Date Committee shall have standing and full power and authority, either in its name, the Revested Debtor's name or both, in its sole discretion to commence, if not already commenced, prosecute, and abandon any action related to Recovery

1 Rights Against Insiders. All settlements of Recovery Rights Against Insiders shall be approved  
 2 by the Bankruptcy Court after notice and a hearing. Post-Effective Date Committee shall be  
 3 authorized to retain counsel to prosecute these actions. Any counsel retained to prosecute  
 4 Recovery Rights Against Insiders prior to the date the Confirmation Order becomes a Final  
 5 Order shall not be disqualified from being retained by the Post-Effective Date Committee on the  
 6 same terms and conditions of its prior employment solely by reason of that prior employment.

7 **J. Effect of Confirmation**

8 On the Confirmation Date, the provisions of the Plan shall be binding on the  
 9 Debtor, the Revested Debtor, the Estate, all holders of Claims against or Interests in the Debtor,  
 10 and all other parties in interest whether or not such holders are impaired and whether or not such  
 11 holders have accepted the Plan.

12 **K. Nondischarge And Injunction.**

13 **1. Nondischarge Of Debtor.**

14 Pursuant to section 1141(d)(3) of the Bankruptcy Code, the Confirmation Order  
 15 shall not discharge Claims against the Debtor. However, no creditor of the Debtor or holder of  
 16 an Interest may receive any payment from or seek recourse against any assets that are to be  
 17 distributed under this Plan, except for those assets required to be distributed to that Creditor as  
 18 expressly provided for in this Plan. As of the Effective Date, all entities are precluded from  
 19 asserting against the Debtor, the Revested Debtor, or any property that is to be distributed under  
 20 this Plan any Claims, rights, causes of action, liabilities or Interests based upon or related to any  
 21 act or omission, transaction or other activity of any kind or nature that occurred prior to the  
 22 Effective Date, other than as expressly provided in this Plan or the Confirmation Order,  
 23 regardless of the filing, lack of filing, allowance or disallowance of such a Claim or Interest and  
 24 regardless of whether such an entity has voted or not voted to accept or reject this Plan.

25 **2. Injunction.**

26 Except as otherwise provided in the Plan or the Confirmation Order, on and after  
 27 the Effective Date all entities that have held, currently hold or may hold a debt, claim, other  
 28 liability or interest against or in the Debtor that would be discharged upon confirmation of this

1 Plan and the Effective Date but for the provisions of section 1141(d)(3) of the Bankruptcy Code  
 2 and Section K.1. hereof are permanently enjoined from taking any of the following actions on  
 3 account of such debt, claim, liability, interest or right: (a) commencing or continuing in any  
 4 manner any action or other proceeding on account of such debt, claim, liability, interest or right  
 5 against the Debtor, the Revested Debtor, the Litigation Trust or property that is to be distributed  
 6 under this Plan, other than to enforce any right to a distribution with respect to such property  
 7 under the Plan; (b) enforcing, attaching, collecting or recovering in any manner any judgment,  
 8 award, decree, or order against the Debtor, the Revested Debtor, or any property to be distributed  
 9 to creditors under this Plan, other than as permitted under subparagraph (a) above; and (c)  
 10 creating, perfecting or enforcing any lien or encumbrance against any property to be distributed  
 11 under this Plan, other than as permitted by this Plan.

12                   On and after the Effective Date, each holder of an Interest in the Debtor is  
 13 permanently enjoined from taking or participating in any action that would interfere or otherwise  
 14 hinder the Debtor from implementing this Plan or the Confirmation Order.

15                   **L. Exemption From Certain Transfer Taxes And Further Transactions.**

16                   Pursuant to section 1146(c) of the Code, the issuance or exchange of any security,  
 17 or the making or delivery of any instrument of transfer under, in furtherance, or in connection  
 18 with the Plan, including, but not limited to, any deeds, bills of sale, assignments or other  
 19 instruments of transfer, shall not be subject to any stamp tax, real estate transfer tax or similar  
 20 tax.

21                   **M. Corporate Action.**

22                   The liquidation of the Debtor/Revested Debtor, dissolution of the  
 23 Debtor/Revested Debtor, cancellation of the Interests, and the other matters provided for under  
 24 the Plan involving the corporate structure of the Debtor / Revested Debtor or corporate action to  
 25 be taken by or required of the Debtor / Revested Debtor shall be deemed to have occurred and be  
 26 effective as provided herein and shall be authorized and approved in all respects, without any  
 27 requirement of further action by stockholders or directors of the Debtor / Revested Debtor. The  
 28 Debtor, Debtor in Possession and Revested Debtor shall each be authorized to execute, deliver,

1 file or record any instruments, applications and documents and take such other action as may be  
2 necessary to effectuate and further evidence the terms and conditions of the Plan.

3 **N. Retention Of Jurisdiction.**

4 Following confirmation of this Plan, the Bankruptcy Court shall retain such  
5 jurisdiction as is legally permissible after confirmation, including, without limitation, for the  
6 following purposes:

7 1. To determine the allowability, amount, classification, or priority of Claims  
8 upon objection by the Debtor, the Revested Debtor or the Post-Effective Date Board of  
9 Directors;

10 2. To construe and to take any action to execute and enforce this Plan, the  
11 Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be  
12 necessary for the implementation, execution, performance, and consummation of this Plan and  
13 all matters referred to herein, and to determine all matters that may be pending before the  
14 Bankruptcy Court in the Case on or before the Effective Date;

15 3. To rule on any and all applications for allowance of compensation and  
16 expense reimbursement of professionals for periods on or before the Effective Date;

17 4. To rule on any request for payment of any Administrative Claim or  
18 administrative expense;

19 5. To resolve any dispute regarding the implementation, execution,  
20 performance, consummation, or interpretation of this Plan;

21 6. To resolve all applications, adversary proceedings, contested matters, and  
22 other litigated matters instituted on or before the Effective Date;

23 7. To hear and determine any actions related to the Recovery Rights,  
24 including Recovery Rights Against Insiders, whether or not such actions are pending on the  
25 Effective Date;

26 8. To determine such other matters and to perform other functions as may be  
27 provided in the Confirmation Order;

1                   9. To modify this Plan under section 1127 of the Bankruptcy Code, to  
2 remedy any apparent nonmaterial defect or omission in this Plan, or to reconcile any nonmaterial  
3 inconsistency in the Plan so as to carry out its intent and purposes, subject to consultation with  
4 the Committee and the provision of notice and opportunity for a hearing regarding any such  
5 modification;

6                   10. To issue injunctions or take such other actions or make such other orders  
7 as may be necessary or appropriate to restrain interference with this Plan or its execution or  
8 implementation by any entity;

9                   11. To issue such orders in aid of execution of the Plan and the Confirmation  
10 Order, notwithstanding any otherwise applicable nonbankruptcy law, with respect to any entity,  
11 to the full extent authorized by the Bankruptcy Code;

12                  12. To designate, if necessary, pursuant to Bankruptcy Rule 9001(5), an  
13 individual to act on behalf of the Debtor or the Revested Debtor after the Effective Date; and

14                  13. To enter a final decree closing the Case.

15                  **O. Successors And Assigns.**

16                  The rights, benefits and obligations of any entity named or referred to in this Plan  
17 are binding on, and will inure to the benefit of, any permitted heirs, executors, administrators,  
18 successors or assigns of such entity.

19                  **P. Modification of the Plan.**

20                  The Debtor reserves the right, in accordance with the Code, to amend or modify  
21 the Plan prior to the Entry of the Confirmation Order, subject to consultation with the Committee  
22 and the provision of notice and opportunity for a hearing regarding any such modification.

23                  After the Entry of the Confirmation Order, the Revested Debtor may, upon order of the Court,  
24 amend or modify the Plan in accordance with section 1127(b) of the Bankruptcy Code, or  
25 remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may  
26 be necessary to carry out the purpose and intent of the Plan, subject to consultation with the  
27 Committee and the provision of notice and opportunity for a hearing regarding any such  
28 modification.

1                   As noted in the Introduction, Article I above, this Plan contemplated the  
 2 liquidation of all of the Debtor's assets and the termination of the Debtor's business operations.  
 3 However, the Debtor is seeking to employ KPMG Corporate Finance, LLC ("KPMG") to  
 4 provide investment banking services to the Debtor and, in particular, to attempt to develop, with  
 5 the Debtor, a business restructuring plan which, in all likelihood, would involve the participation  
 6 of a third-party investor. As of this date, the Court has not yet approved the employment of  
 7 KPMG and, accordingly, KPMG has not begun rendering services. Nevertheless, the Debtor is  
 8 reserving its right to amend this Plan to provide an alternative to liquidation, in the event that,  
 9 through the services to be provided by KPMG, or otherwise, the Debtor is in a position to  
 10 propose a feasible Plan that would involve continued and future business operations.

11                   **Q.        Objections to Claims.**

12                   1.        The Revested Debtor shall be responsible for, subject to consultation with,  
 13 and the prior approval of, the Post-Effective Date Board of Directors, commencing, prosecuting  
 14 or settling objections to Claims, including Administrative Claims and Administrative Expenses,  
 15 not concluded as of the Effective Date. All objections to Claims shall be filed with the  
 16 Bankruptcy Court and served upon the holders of such Claims by the later of (a) 120 days after  
 17 the Effective Date, or (b) 120 days after the particular proof of claim has been filed, except as  
 18 extended by an agreement between the claimant and the Revested Debtor, or by order of the  
 19 Bankruptcy Court upon a motion filed by the Revested Debtor, with notice of such motion to be  
 20 served upon the Office of the United States Trustee, the Post-Effective Date Board of Directors,  
 21 Post-Effective Date Committee and those holders of Claims to whom the objection is made. If  
 22 an objection has not been filed to a proof of claim that relates to a Claim by the objection bar  
 23 dates established in this Section, the Claim to which the proof of claim relates shall be treated as  
 24 an Allowed Claim for purposes of distribution under the Plan.

25                   2.        The Post-Effective Date Committee shall have the authority to object to  
 26 any Claims or actions asserted by any Insider or which is asserted against both the Debtor and  
 27 any affiliate of the Debtor.

1           **R. Limitation of Liability.**

2           Neither the Debtor/Revested Debtor, or any of its respective employees, officers,  
 3           directors, partners, agents, representatives, or any professional persons employed by any of them,  
 4           nor the Committee, the Post-Effective Date Board of Directors, the Post-Effective Date  
 5           Committee or any of their respective members, agents, representatives, attorneys, accountants,  
 6           auditors or other advisors, shall have or shall incur any liability to any Person or entity for any  
 7           act taken or omission made in good faith in connection with or related to the post-petition  
 8           administration of the Debtor's case, including, but not limited to, the formulation,  
 9           implementation, confirmation, or consummation of the Plan, the Disclosure Statement, or any  
 10           contract, instrument, release, or other agreement or document created in connection with the Plan  
 11           or regarding any distribution made under the Plan.

12           Pursuant to section 1125(e) of the Bankruptcy Code, the Debtor, the Committee  
 13           and its present and former members, officers, directors, employees, agents, advisors,  
 14           representatives, successors or assigns, and any Professionals (acting in such capacity) employed  
 15           by any of the foregoing entities will neither have nor incur any liability for their role in soliciting  
 16           acceptance or rejection of the Plan.

17           **S. Indemnification.**

18           After the Effective Date, the Estate shall indemnify the Revested Debtor and the  
 19           members of the Post-Effective Date Board of Directors and Post-Effective Date Committee  
 20           against any and all Claims, causes of action, losses, costs, damages, attorneys' fees and other  
 21           expenses, each may sustain in carrying out their respective duties and obligations hereunder  
 22           except those which arise as a result of gross negligence, fraud, breach of fiduciary duty or willful  
 23           misconduct.

24           **T. Cramdown.**

25           Notwithstanding anything to the contrary contained herein, the Debtor reserves  
 26           the right to seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code in  
 27           the event any impaired Class of Claims or Interests does not vote to accept the Plan.

## ARTICLE VI

## MISCELLANEOUS

**A. Governing Law.** Except to the extent that the Bankruptcy Code or the Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by the laws of the State of California.

**B. Provisions Severable.** Should any provision in this Plan be determined to be unenforceable, such determination shall in no way limit or affect the enforceability and operative effect of any or all other provisions of the Plan.

**C. Headings Do Not Control.** In interpreting this Plan, the headings of individual sections are provided for convenience only, and are not intended to control over the text of any section. The headings used in the Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the provisions of the Plan

**D. Post-Confirmation Status Report.** Within 120 days of the Entry of the Confirmation Order, the Revested Debtor shall file a status report with the Bankruptcy Court explaining what progress has been made toward consummation of the confirmed Plan. The status report shall be served on the United States Trustee, the Post-Effective Date Committee, and those parties who have requested post-confirmation notice as provided for herein in subsection F below. Further status reports shall be filed every 120 days and served on the same entities.

**E. Fractional Dollars.** Any other provision of the Plan notwithstanding, no payments of fractions of dollars will be made to any holder of an Allowed Claim. Whenever any payment of a fraction of a dollar to any holder of an Allowed Claim would otherwise be called for, the actual payment will reflect a rounding of such fraction up or down to the nearest whole dollar.

**F. Payment Dates.** Whenever any payment to be made under the Plan is due on a day other than a Business Day, such payment will instead be made, without interest, on the next Business Day.

1                   **G. Post-Confirmation Notices or Requests.** From and after the Effective Date, any  
2 Person who desires notice of any pleading or document filed in the Bankruptcy Court, or any  
3 hearing in the Bankruptcy Court, or other matter as to which the Code requires notice to be  
4 provided, shall file a request for post-confirmation notice and shall serve the request on the  
5 Revested Debtor through its counsel, Gary E. Klausner, Stutman, Treister & Glatt Professional  
6 Corporation, 1901 Avenue of the Stars, 12<sup>th</sup> Floor, Los Angeles, California 90067.

7                   **ARTICLE VII**

8                   **CONFIRMATION REQUEST**

9                   The Debtor requests confirmation of the Plan pursuant to section 1129 of the  
10 Bankruptcy Code.

11                   DATED: October 4, 2010

12                   Respectfully submitted,

13                   Imperial Capital Bancorp, Inc.  
14                   Debtor and Debtor In Possession

15                   By: 

16                   Joseph W. Kiley  
17                   Chief Executive Officer

18                   Submitted by:

19                   Stutman, Treister & Glatt,  
20                   Professional Corporation

21                   By: /s/ Gary E. Klausner

22                   Gary E. Klausner, Esq.  
23                   Reorganization Counsel  
24                   to Debtor and Debtor in Possession

EXHIBIT "B"

[To be submitted on approval of Disclosure Statement]

EXHIBIT "C"

4:05 PM

09/17/10

Accrual Basis

## Imperial Capital Bancorp, Inc.

## Balance Sheet

As of August 31, 2010

	Aug 31, 10	Jul 31, 10	\$ Change
<b>ASSETS</b>			
<b>Current Assets</b>			
Checking/Savings			
1002000 · PETTY CASH	250.00	250.00	0.00
1005100 · BOFA - DIP GENERAL	127,656.88	127,943.21	-286.33
1006100 · TORREY PINES BK - DIP GENERAL	176,020.03	576,932.06	-400,912.03
1006200 · TORREY PINES BK - DIP PAYROLL	406.46	406.46	0.00
1006300 · TORREY PINES BK - DIP MONEY MKT	4,993,847.10	4,989,689.63	4,157.47
1006400 · TORREY PINES BK - MM RABBI TR	1,990,837.19	0.00	1,990,837.19
1010000 · ICB BK ACCT - MAIN	-625.59	-625.59	0.00
1010900 · ICB - UNAUTHORIZED TRANSACTIONS	47,910.98	47,910.98	0.00
<b>Total Checking/Savings</b>	<b>7,336,303.05</b>	<b>5,742,506.75</b>	<b>1,593,796.30</b>
Other Current Assets			
1109200 · COMMON STOCK - AVAIL FOR SALE	96,292.00	109,023.00	-12,731.00
1109300 · RESIDUAL INTEREST-SECURITIZED	367,747.26	381,583.79	-13,836.53
1200300 · INVST IN SUB-ITLA MTG LN SEC	75,000.00	75,000.00	0.00
<b>Total Other Current Assets</b>	<b>539,039.26</b>	<b>565,606.79</b>	<b>-26,567.53</b>
<b>Total Current Assets</b>	<b>7,875,342.31</b>	<b>6,308,113.54</b>	<b>1,567,228.77</b>
Fixed Assets			
1520000 · COMPUTER EQUIPMENT	185,143.43	185,143.43	0.00
1520100 · COMPUTER SOFTWARE	18,875.00	18,875.00	0.00
1521000 · OFFICE EQUIPMENT	212,228.31	212,228.31	0.00
1522000 · FURN & FIX. CAPITAL EXEC.	386,032.90	386,032.90	0.00
1523000 · SIGNS	2,639.99	2,639.99	0.00
1524000 · LEASEHOLD IMPROVEMENTS	263,333.51	263,333.51	0.00
1525000 · AUTOS /EXECUTIVE	67,325.24	67,325.24	0.00
1531500 · ACCUM DEPREC COMPUTER EQUIPMEN	-169,049.73	-169,049.73	0.00
1531600 · ACCUM DEPREC COMPUTER SOFTWARE	-18,875.00	-18,875.00	0.00
1531800 · ACCUM DEPREC OFFICE EQUIPMENT	-206,044.65	-206,044.65	0.00
1532000 · ACCUM DEPREC FURNITURE & FIXT	-364,514.88	-364,514.88	0.00
1533000 · ACCUM DEPREC SIGNS	-2,639.99	-2,639.99	0.00
1534000 · ACCUM DEPREC LEASEHOLD IMPROVE	-263,333.51	-263,333.51	0.00
1535000 · ACCUM DEPREC AUTOS	-43,050.24	-43,050.24	0.00
<b>Total Fixed Assets</b>	<b>68,070.38</b>	<b>68,070.38</b>	<b>0.00</b>
Other Assets			
1488000 · ACCRUED INTEREST - TRUST I	0.00	59,029.80	-59,029.80
1488010 · ACCRUED INTEREST - TRUST II	0.00	62,709.60	-62,709.60
1488020 · ACCRUED INTEREST - TRUST III	0.00	39,840.86	-39,840.86
1488030 · ACCRUED INTEREST - TRUST IV	0.00	16,245.61	-16,245.61
1488040 · ACCRUED INTEREST - TRUST V	0.00	31,977.91	-31,977.91
1500000 · Curr Fed Tax Pay	29,297,406.00	29,297,406.00	0.00
1503000 · Curr Tax Pay - DELAWARE	99,945.00	99,945.00	0.00
1600000 · PREPAID GENERAL, NET	74,435.33	-867,933.97	942,369.30
1601000 · PREPAID INSURANCE	32,566.99	48,975.51	-16,408.52
1620000 · DEPOSITS - RENT	30,971.51	30,971.51	0.00
1628000 · TRUST ASSETS DEFERRED COMP	22,051.93	2,009,551.62	-1,987,499.69
1628500 · SERP ASSETS	-0.54	2,601.01	-2,601.55
1635000 · A/R MISC.	13,860.77	13,860.77	0.00
1639000 · A/R MASS MUTAL-401K	35,167.39	35,167.39	0.00
1639100 · AR -CASH SURRENDER VALUE -LIFE	4,537,633.91	4,706,898.14	-169,264.23
1639200 · SPLIT DOLLAR LIFE RECEIVABLE	441,240.00	441,240.00	0.00
<b>Total Other Assets</b>	<b>34,585,278.29</b>	<b>36,028,486.76</b>	<b>-1,443,208.47</b>
<b>TOTAL ASSETS</b>	<b>42,528,690.98</b>	<b>42,404,670.68</b>	<b>124,020.30</b>

## **CERTIFICATE OF SERVICE**

I, Danielle S. Trujillo, am over the age of 18 years and not a party to the within action. I am employed in an office that employs a member of the bar of this court, at whose direction the within service was made. My business address is Stutman, Treister, & Glatt Professional Corporation, 1901 Avenue of the Stars, 12<sup>th</sup> Floor, Los Angeles, California 90067-6013.

On October 4, 2010, I served the foregoing pleading:

**DISCLOSURE STATEMENT RE CHAPTER 11 LIQUIDATING PLAN  
OF REORGANIZATION FOR DEBTOR IMPERIAL CAPITAL  
BANCORP, INC., A DELAWARE CORPORATION DATED  
OCTOBER 4, 2010**

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, with first class postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows:

*See Service List Attached Hereto and Incorporated Herein by Reference*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 4, 2010, at Los Angeles, California.

/s/ *Danielle S. Trujillo*

---

Danielle S. Trujillo

## SERVICE LIST

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Imperial Capital Bank  
Special Notice List  
Doc No. 534752 Rev. 10/04/10

Imperial Capital Bancorp  
Attn: Joseph W. Kiley, III, CEO  
PO Box 2283  
La Jolla, CA 92037-2283

Counsel to Bank of New York Mellon:  
Pillsbury Winthrop Shaw Pittman LLP  
Margot P. Erlich/Leo Crowley  
1540 Broadway  
New York, NY 10036-4039

Securities & Exchange Commission  
Attn: Sara D. Moyed  
5670 Wilshire Blvd., Suite 1100  
Los Angeles, CA 90036

Committee Member:  
Bank of New York Mellon as Indenture  
Trustee  
Attn: Martin Feig  
101 Barclay Street, 8 West  
New York, NY 10286

David Hunt  
4087 Caminito Suero  
San Diego, CA 92122

Jeffrey A. Berman  
Sidley & Austin LLP  
555 W. Fifth Street, 40th Floor  
Los Angeles, CA 90013

Charles E. Kohl  
25662 Shaw Place  
Stevenson Ranch, CA 91381

Keith Lupton  
Ernst & Young LLP  
725 S. Figueroa Street  
Los Angeles, CA 90017

Imperial Capital Bancorp  
Attn: Anthony Rusnak, Esq.  
PO Box 2283  
La Jolla, CA 92037-2283

Committee Member:  
US Bank as Trustee for  
ITLA Capital Statutory Trust(s) I, II, V,  
Attn: James H. Byrnes  
One Federal Street, 3rd Floor  
Boston, MA 02110

Federal Deposit Insurance Corporation  
25 Jessie Street at Ecker Square,  
Suite 2300  
San Francisco, CA 94105

Committee Member:  
888 Prospect LJ, LLC  
Attn: Mercedes Juarez  
Cushman & Wakefield of SD  
4435 Eastgate Mall, Suite 200  
San Diego, CA 92121

Timothy M. Doyle  
2617 Sutter Street  
Carlsbad, CA 92010

Scott Wallace  
7879 Sitio Abeto Dr.  
Carlsbad, CA 92309

A Bullock  
Squar, Milner, Peterson, Miranda  
& Williamson, LLP  
4100 Newport Place Drive, Third Floor  
Newport Beach, CA 92660

Rosemary E. Lennon  
1031-A Kenneth Road  
Glendale, CA 91202

United States Trustee  
David A. Ortiz, Esq.  
United States Department of Justice  
402 West Broadway, Suite 600  
San Diego, CA 92101

United States Department of Justice Tax  
Division  
Civil Trial Section, Western Division  
PO Box 683, Ben Franklin Station  
Washington, DC 20044

Dept of Financial Institutions  
7575 Metropolitan Drive, Suite 108  
San Diego, CA 92108

Brian Benson  
357 S. Curson Ave., #11-C  
Los Angeles, CA 90036

David Muchnikoff  
Silver Freedman & Taff LLP  
3299 K Street NW, Suite 100  
Washington, DC 20007

American Express Travel Services, Inc.  
4315 S. 2700 W  
Salt Lake City, UT 84184

Aila Pallera  
KPMG  
355 South Grand Avenue  
Los Angeles, CA 90071-1568

Thomas Hobbs  
531 Avenida del Verdor  
San Clemente, CA 92672

1  
2 Bloomberg, LP  
3 6500 Wilshire Boulevard  
4 Los Angeles, CA 90048

Kevin Boyer, President  
Boyer Moving & Storage  
13691 Danielson Street, Suite D  
Poway, CA 92064

Jayne Lindberg  
J A Lindberg Interiors  
4079 Promontory Street  
San Diego, CA 92109

5 Grande Colonial Hotel La Jolla  
6 910 Prospect Street  
7 La Jolla, CA 92037

Cynthia S. Reynolds  
AVP/Dedicated Service Director  
Bank of America  
1655 Grant Street, Bldg. A, 10th Floor  
Concord, CA 94520

Counsel to FDIC:  
Jeffrey Isaacs  
Procopio, Cory, Hargreaves & Savitch  
LLP  
530 B Street, Suite 2100  
San Diego, CA 92101

8 Counsel to Bloomberg Finance LP  
9 Willkie Farr & Gallagher LLP  
10 Attn: Carol R. Mascera/Shaunna D.  
11 Jones  
12 787 Seventh Avenue  
13 New York, NY 10019-6099

Counsel to U.S. Bank National  
Association  
Marie C. Pollio  
Shipman & Goodwin LLP  
One Constitution Plaza  
Hartford, CT 06103

Counsel to Bank of New York Mellon:  
Pillsbury Winthrop Shaw Pittman LLP  
Mark D. Houle, Esq.  
650 Town Center Drive, Suite 700  
Costa Mesa, CA 92626-7122

14 Request For Notice:  
15 Counsel to 888 Prospect  
Jerry D. Hemme  
16 Goode, Hemme & Peterson  
17 6256 Greenwich Dr. Suite 500  
18 San Diego, CA 92122

19 Attys for Iron Mountain Info. Mngt, Inc.  
20 Frank F. McGinn  
21 Bartlett Hackett Feinberg P.C.  
22 155 Federal St., 9th Fl.  
23 Boston, MA 02110

Counsel to the Creditors' Committee:  
David P. Simonds  
Akin Gump Strauss Hauer & Feld LLP  
2029 Century Park East, Suite 2400  
Los Angeles, CA 90067

Gerald P. Kennedy  
Procopio, Cory, Hargreaves & Savitch  
LLP  
530 B Street, Suite 2100  
San Diego, CA 92101